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UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE SOUTHERN PACIFIC COMPANY, a Corporation,
THE SOUTHERN PACIFIC RAILROAD COMPANY, a Corporation,
HOMER S. KING, Trustee, JAMES K. WILSON, Trustee,
THE CENTRAL TRUST COMPANY OF NEW YORK, a Corporation,
THE EQUITABLE TRUST COMPANY OF NEW YORK, a Corporation,
THE KERN TRADING & OIL COMPANY, a Corporation,
Appellants,

vs,

THE UNITED STATES OF AMERICA,

Appellee.

TRANSCRIPT OF RECORD

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED
STATES OF AMERICA,

IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
NORTHERN DIVISION.

Filed

MAR 23 1917

VOLUME III F. D. Monckton,
Clerk.

Co., and in 1902 purchased the property of the Cromwell Steamship Co.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 9, 1902: [1048]

T. J. Coolidge, Jr., Boston.

Wm. D. Cornish, New York.

George J. Gould, Lakewood, N. Y.

E. H. Harriman, Arden, N. Y.

Edwin Hawley, New York.

H. E. Huntington, San Francisco.

James H. Hyde, New York.

Otto H. Kahn, Morriston, N. J.

(x) J. W. Mackey, New York.

D. O. Mills, New York.

Winslow S. Pierce, New York.

Jacob H. Schiff, New York.

James Speyer, New York.

James Stillman, New York.

Charles H. Tweed, New York.

(x) Deceased.

(35)

EXECUTIVE COMMITTEE (8), elected April 11, 1902:

E. H. Harriman, Chairman.

George J. Gould.

Edwin Hawley.

Otto H. Kahn.

Jacob H. Schiff.

James Speyer.

James Stillman.

Charles H. Tweed.

OFFICERS

EXECUTIVE DEPARTMENT, elected April 11,
1902:

E. H. Harriman, President, Arden, N. Y. [1049]

H. E. Huntington, Vice President, San Francisco.

Second Vice-President.

J. C. Stubbs, Third Vice-President, Chicago.

J. Kruttschnitt, Fourth V.-P. and Asst. to Prest.,
San Francisco.

Alex Millar, Clerk and Secretary, New York.

Jos. Hellen, Assistant Secretary, New York.

G. T. Klink, Assistant Secretary, San Francisco.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New
York.

Alex Millar, Transfer Agent for Bonds and Stock,
New York.

Otto C. Kahn, Asst. Trans. Agent for Bonds and
Stock, New York.

Union Trust Company, Registrar of Transfers,
New York.

LEGAL DEPARTMENT:

W. F. Herrin, Chief Counsel, San Francisco.

Maxwell Evarts, Attorney, New York.

J. E. Foulds, Attorney, San Francisco.

D. R. Sessions, Claims Attorney, San Francisco.

E. B. Ryan, Tax Attorney, San Francisco.

W. W. Bretherton, Right of Way, Tax and Claim Agent, Portland.

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. S. Bradt, Assistant Comptroller, New York.

Erastus Young, Omaha. [1050]

G. T. Klink, Auditor, San Francisco.

C. J. Wilder, Assistant Auditor, San Francisco.

D. W. Horsburg, Freight Auditor, San Francisco.

H. S. Lincoln, Assistant Freight Auditor, San Francisco.

E. E. Holton, Ticket Auditor, San Francisco.

(36)

J. C. Stubbs, Traffic Director, Chicago.

B. Campbell, Asst. Traffic Director, Chicago.

Wm. Sproule, Freight Traffic Mgr., Pacific System, San Francisco.

H. A. Jones, Freight Traffic Mgr., Atlantic System, New Orleans.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

Thos. A. Graham, Asst. General Freight Agent, San Francisco.

Chas. S. Fay, Asst. General Freight Agent, New Orleans.

W. E. Coman, General Freight and Passenger Agent, Lines in Oregon, Portland.

G. A. Parkyns, Asst. Gen. Freight and Pass. Agent, Los Angeles.

E. O. McCormick, Passenger Traffic Mgr., San Francisco.

T. H. Goodman, General Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Passenger Agent, San Francisco.

Jas. Horsburg, Jr., Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

M. L. Robbins, General Passenger Agent, Houston.

F. S. Decker, Asst. Gen. Pass. and Ticket Agent, New Orleans. [1051]

E. B. Carson, General Baggage Agent, San Francisco.

Thornwell Fay, General Agent, New Orleans.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, General Manager, San Francisco.

Jas. Agler, Manager, San Francisco.

R. Koehler, Manager, Lines in Oregon, Portland.

N. H. Foster, Manager's Assistant, San Francisco.

Geo. F. Richardson, Supt. of Transportation, Pacific and Atlantic Systems, San Francisco.

J. H. Wallace, Engineer, Maintenance of Way, San Francisco.

A. E. Roome, Superintendent Telegraph, San Francisco.

H. J. Small, General Supt. Motive Power, San Francisco.

E. A. Gilbert, Master Car Builder, San Francisco.

W. C. Farrington, Mgr. Atlantic Coast S. S. Lines,
New Orleans.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

LAND DEPARTMENT:

Wm. H. Mills, Land Agent, C. P. R. R., San Francisco.

Jerome Madden, Land Agent, S. P. R. R., San Francisco.

Geo. H. Andrews, Acting Land Agent, Portland.

O. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York..

R. P. Schwerin, Manager, Purchases and Supplies,
San Francisco.

R. Stevenson, Asst. Mgr., Purchases and Supplies,
San Francisco. [1052]

(37)

Southern Pacific Railroad Company. Incorporated,
California, Arizona, and New Mexico, March
10, 1902, for 50 years.

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(40)

First Mortgage Gold Bonds of S. P. R. R. Co., of
California, of 1875, Series A to G, inclusive; author-
ized \$46,000,000; issued, \$39,285,000; outstanding
\$29,187,500, viz.:

A. Authorized and issued, \$15,000,000;
dated April 1, 1875; due April 1,
1905; outstanding\$12,505,500

- B. Authorized and issued, \$5,000,000;
dated October 1, 1875; due October
1, 1905; outstanding 4,045,000
- C. Authorized and issued, \$5,000,000;
dated October 1, 1876; due October
1, 1906; outstanding 3,766,000
- D. Authorized and issued, \$5,000,000;
dated October 1, 1876; due October
1, 1906; outstanding 3,747,000
- E. Authorized and issued, \$5,000,000;
dated April 1, 1882; due April 1,
1912; outstanding 3,160,000
- F. Authorized, \$5,000,000; issued, \$4,-
285,000; dated April 1, 1882; due
April 1, 1912; outstanding 1,964,000
- G. Authorized, \$6,000,000; never issued. [1053]

Interest, 6 per cent., gold, payable April and October. Trustees, D. O. Mills, New York, and Homer S. King, San Francisco.

(41)

Southern Pacific Branch Railway First Mortgage Gold Bonds; authorized, \$9,000,000; issued, \$3,578,000; dated April 1, 1887; due April 1, 1937; outstanding, \$3,533,000. Interest, 6 per cent., gold, payable April and October. Trustee, Union Trust Company of San Francisco.

Stockton & Copperopolis R. R. First Mortgage Gold Bonds; authorized, issued, and outstanding, \$500,000; dated January 1, 1875; due January 1, 1905. Interest, 5 per cent., gold, payable, January and July. Trustee, J. L. Willcutt, San Francisco.

Southern Pacific R. R., of California, First Consolidated Mortgage Gold Bonds of 1893; authorized, \$58,000,000, and such additional amount of bonds as may be sufficient to retire, bond for bond, outstanding first mortgage bonds of the S. P. R. R. Co., issued under the mortgage dated April 1, 1875; issued, \$27,674,000; dated November 1, 1893; due November 1, 1937; outstanding \$27,579,000. Interest, 5 per cent., gold, payable May and November. Trustee, Central Trust Company of New York.

NOTE:—Bonds issued under the Stockton & Copperopolis R. R. Mortgage of January 1, 1875, Southern Pacific Branch Ry. Mortgage of November 24, 1886, and Southern Pacific R. R. Co. Mortgage of August 25, 1888 (now satisfied and discharged), to be retired out of the above-authorized issue of \$58,000,000. [1054]

Northern Railway First Mortgage Gold Bonds of 1877; authorized, \$6,300,000; issued and outstanding, \$5,156,000; dated January 1, 1877; due January 1, 1907. Interest, 6 per cent., gold, payable January and July. Trustees, Eugene Kelly and Henry B. Laidlaw, both of the City of New York.

Northern Railway First Mortgage Gold Bonds of 1888; authorized, \$21,000,000; issued and outstanding, \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds: authorized, \$1,100,000; issued and out-

standing, \$1,074,000; dated November 1, 1889; due November 1, 1929. Interest 5 per cent., gold, payable June and December. Trustee, California Safe Deposit & Trusts Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds: authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated January 1, 1867; due January 1, 1912. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco.

California Pacific R. R. Second Mortgage Gold Bonds: authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal. [1055]

(42)

California Pacific R. R. Third Mortgage Gold Bonds: authorized, \$2,000,000; issued, and outstanding, \$1,998,500; dated July 1, 1875; due July 1, 1905. Interest, 6 per cent., gold, payable January and July. Trustee, Stephen T. Gage, of the City of San Francisco, Cal.

California Pacific R. R. Third Mortgage Gold Bonds: authorized, issued, and outstanding, \$1,000,000; dated July 1, 1875; due July 1, 1905. Interest, 3 per cent., gold, payable January and July. Trustee, Stephen T. Gage, of the City of San Francisco, Cal.

Southern Pacific R. R. (of Arizona) First Mortgage Gold Bonds: authorized, issued and outstand-

ing, \$10,000,000; Series A, amounting to \$6,000,000; dated March 1, 1879; due March 1, 1909, and Series B, \$4,000,000; dated March 1, 1880; due March 1, 1910. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the city of San Francisco, Cal.

Southern Pacific R. R. of New Mexico First Mortgage Gold Bonds: authorized, \$5,000,000; issued and outstanding, \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

DIRECTORS (11), elected April 14, 1903:

E. H. Harriman, Arden, N. Y.

Alvinza Hayward, San Francisco.

I. W. Hellman, San Francisco.

Wm. F. Herrin, San Francisco. [1056]

Homer S. King, San Francisco.

J. Kruttschnitt, San Francisco.

J. S. Slauson, Los Angeles.

N. T. Smith, San Francisco.

Wm. Sproule, San Francisco.

J. L. Willeutt, San Francisco.

Jas. K. Wilson, San Francisco.

OFFICERS, elected April 14, 1903:

E. H. Harriman, President, Arden, N. Y.

Vice-President.

J. Kruttschnitt, Second Vice-President, San Francisco.

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New York.

J. L. Willcutt, Secretary, San Francisco.

Alex. Millar, Assistant Secretary, New York.

Alex. Millar, Transfer Agent for Bonds, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

Jos. Hellen and O. C. Kahn, New York, are Acting Transfer Agents for Bonds of S. P. R. R. Cos. of California and of New Mexico.

From Manual No. 3, for the year 1904, marked Plaintiff's Exhibit "K K K", the title page and index and such matter as appears on pages 22, 31, 35, 37, 38, 39, 40, 43, 44 and 45, which I will read into the record as follows: [1057]

SOUTHERN PACIFIC and AUXILIARY
COMPANIES.

Manual No. 3—July 1, 1904.

Notice: Officers receiving this volume will confer a favor on the undersigned by giving him early notice of errors noted, or changes necessary, in the following pages.

Alex Millar, Secretary.

(Secretary's Files.)

SOUTHERN PACIFIC and AUXILIARY
COMPANIES.

Manual No. 3—1904.

of

Annual Meetings, Directors, Officers, Capital
Stock, Funded Debt, Etc.

July 1, 1904.

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(22)

KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 years.

ANNUAL MEETING may be held at San Francisco on last Saturday in May. Notice to be published in one or more papers in the City and County of San Francisco, as the Directors may determine, at least ten days previously, or to be given in writing by the President to each Stockholder personally.

Meetings of Directors, whenever necessary, on call of President.

No specification for close of fiscal years.

CAPITAL STOCK: authorized and issued, \$1,-000,000. Shares \$100 each.

DIRECTORS (5) elected June 22, 1904:

E. T. Dumble, San Francisco.

J. E. Foulds, Berkeley.

C. H. Markham, San Francisco.

J. H. Wallace, San Francisco.

J. L. Wilcutt, San Francisco.

OFFICERS, elected June 23, 1904:

C. H. Markham, President, San Francisco.

E. T. Dumble, Vice-President, Berkeley.

J. L. Wilcutt, Secretary, San Francisco.

N. T. Smith, Treasurer, San Francisco.

(31)

RIO BRAVO OIL CO. [1060]

Incorporated, Texas, March 3, 1903, for 50 years.

ANNUAL MEETING, Houston, Texas, second Monday in January.

Written notice to be given at least five days previously.

Meetings of Directors can be held at any time.

Fiscal year closes June 30.

CAPITAL STOCK: authorized \$1,000,000. Shares \$100 each.

DIRECTORS (5), elected January 12, 1904:

C. C. Barry, Houston.

E. T. Dumble, Houston.

C. H. Markham, San Francisco.

C. B. Seger, Houston.

W. G. Van Vleck, Houston.

OFFICERS, elected March 13, 1903:

- C. H. Markham, President, San Francisco.
- E. T. Dumble, Vice-President, Houston.
- C. B. Seger, Secretary, Houston.
- B. C. Cushman, Treasurer, Houston.

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CONTROLLED PROPERTIES.

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Central Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast Railway.

The Southern Pacific is also the principal owner of the capital stock of the following companies, which are operated [1061] by their own organizations, viz: Galveston, Harrisburg & San Antonio Railway, Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix and Salt River Valley Railroad, New York, Texas & Mexican Railway, Houston & Texas Central Railroad, Galveston, Houston and Northern Railroad, Carson & Colorado Railway, Houston East & West Texas Railway, Houston & Shreveport Railroad, Gila Valley, Globe & Northern Railway; owner of half the stock of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the lines of the New Mexico & Arizona Railroad and the Sonora Railway Companies.

The Morgan's Louisiana & Texas Railway &

Steamship Co. is the principal owner of stocks of the following companies, which are operated under their own organizations, viz: Gulf, Western Texas & Pacific Railway, Direct Navigation Co., Iberia & Vermillion Railroad.

In March, 1902, the Southern Pacific Railroad of California, the Southern Pacific Railroad of Arizona and the Southern Pacific Railroad of New Mexico were consolidated into a new company, the Southern Pacific Railroad Co.

The Southern Pacific Company also operates steamship lines from New York to New Orleans, La., and Galveston, Tex., New Orleans to Havana, and to Bluefields, Nicaragua, as well as ferry, harbor and river lines in Louisiana, Texas and California, aggregating about 4,906 miles, and owns 21 ocean steamers. In 1900 the company acquired a controlling interest in the stock of the Pacific Mail Steamship Co., and in 1902 purchased the property of the Cromwell Steamship Co.

The Mojave Division of the Southern Pacific Railroad, 242 [1062] miles, is leased to the Atchison, Topeka & Santa Fe Railway Company, until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 6, 1904:

Wm. D. Cornish, New York.

Maxwell Evarts, New York.

George J. Gould, Lakewood, N. J.

E. H. Harriman, Arden, N. Y.

Marvin Hughitt, Chicago.

H. E. Huntington, San Francisco.

James H. Hyde, New York.
Otto H. Kahn, Morristown, N. J.
D. O. Mills, New York.
Winslow S. Pierce, New York.
Jacob H. Schiff, New York.
James Speyer, New York.
James Stillman, New York.
Charles H. Tweed, New York.
A. K. Van Deventer, New York.

(37)

EXECUTIVE COMMITTEE (5), elected June 9,
1904:

E. H. Harriman, Chairman.
George J. Gould.
Jacob H. Schiff.
James Stillman.
Charles H. Tweed.

OFFICERS.

EXECUTIVE DEPARTMENT, elected June 9,
1904:

E. H. Harriman, President, Arden, N. Y.
Wm. D. Cornish, Vice-President (June 24), New
York. [1063]
J. C. Stubbs, Vice-President, Chicago.
J. Kruttschnitt, Vice-President, Chicago.
C. H. Markham, Vice-President, San Francisco.
Alex. Millar, Clerk and Secretary, New York.
Joseph Hellen, Asst. Clerk and Asst. Secretary,
New York.
John B. Weaver, Assistant Clerk, Beechmont, Ky.
N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New York.

Geo. M. Thornton, Cashier (March 31, 1904), New York.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Asst. Transfer Agent, New York.

A. M. Waldron, Asst. Transfer Agent for Stock, New York.

Union Trust Co., Registrar of Transfers, New York.

LEGAL DEPARTMENT:

New York.

R. S. Lovett, Counsel.

Maxwell Evarts, Attorney.

San Francisco.

W. F. Herrin, Chief Counsel.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

E. B. Ryan, Tax Attorney.

Portland.

W. W. Bretherton, Right of Way, Tax, and Claim Agent.

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. S. Bradt, Assistant Comptroller, New York.

Erastus Young, General Auditor, Omaha. [1064]

G. T. Klink, Auditor, San Francisco.

C. J. Wilder, Assistant Auditor, San Francisco.

D. W. Horsburg, Freight Auditor, San Francisco.

H. S. Lincoln, Assistant Freight Auditor, San Francisco.

E. E. Holton, Ticket Auditor, San Francisco.

(38)

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

B. Campbell, Asst. Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

Wm. Sproule, Freight Traffic Manager, San Francisco.

H. A. Jones, Freight Traffic Mgr., Atlantic System, New Orleans.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

Thos. A. Graham, Asst. General Freight Agent, San Francisco.

W. H. Masters, Traffic Manager, New Orleans.

Chas. S. Fay, General Freight Agent, New Orleans.

W. E. Coman, General Freight and Passenger Agent, Lines in Oregon, Portland.

G. A. Parkyns, Asst. Gen. Freight and Pass. Agent, Los Angeles.

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

T. H. Goodman, General Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Passenger Agent, San Francisco.

Jas. Horsburg, Jr., Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

F. E. Batturs, Asst. Gen. Pass. and Ticket Agent, New Orleans.

E. B. Carson, General Baggage Agent, San Francisco. [1065]

J. B. Richardson, General Agent, New Orleans.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director and Maint. and Operation, Chicago.

B. A. Worthington, Assistant Director of Maintenance and Operation, Chicago.

C. H. Markham, General Manager, Lines between El Paso, Reno and Ashland, San Francisco.

E. E. Calvin, General Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Mgr., Lines East of Reno, Salt Lake City.

Jas. Alger, Manager, San Francisco.

J. P. O'Brien, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt. of Transportation, San Francisco.

J. A. Naugle, Asst. Gen. Mgr., Sonora Ry., Guaymas, Mex.

J. H. Wallace, Engineer, Maintenance of Way, San Francisco.

A. E. Roome, Superintendent of Telegraph, San Francisco.

H. J. Small, General Supt. Motive Power, San Francisco.

W. C. Farrington, Mgr. Atlantic Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

(39)

LAND DEPARTMENT:

Wm. H. Mills, Land Agent, C. P. R. R., San Francisco.

Chas. W. Eberlein, Acting Land Agt., S. P. R. R., San Francisco.

Geo. H. Andrews, Acting Land Agent, Portland.

C. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

R. Stevenson, Manager, Purchases and Supplies, San Francisco.

H. W. Ellicott, Asst. Mgr., Purchases and Supplies, San Francisco. [1066]

MEDICAL DEPARTMENT:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

(40)

SOUTHERN PACIFIC RAILROAD COMPANY.

Incorporated, California, Arizona, and New Mexico,
March 10, 1902, for 50 years.

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(43)

FUNDED DEBT.

First Mortgage Gold Bonds of S. P. R. R. Co., of California of 1875, Series A to G, inclusive; authorized, \$46,000,000; issued \$39,285,000; outstanding, \$29,011,000.

- | | | |
|----|---|--------------|
| A. | Authorized and issued, \$15,000,-
000; dated April 1, 1875; due
April 1, 1905; outstanding . . . | \$12,449,000 |
| B. | Authorized and issued, \$5,000,000;
dated October 1, 1875; due Oct.
1, 1905; outstanding | 4,045,000 |
| C. | Authorized and issued, \$5,000,000;
dated October 1, 1876; due Oc-
tober 1, 1906; outstanding . . . | 3,766,000 |
| D. | Authorized and issued, \$5,000,000;
dated October 1, 1876; due Oc-
tober 1, 1906; outstanding | 3,635,000 |
| E. | Authorized and issued, \$5,000,000;
dated April 1, 1882; due April 1,
1912; outstanding | 3,152,000 |
| F. | Authorized, \$5,000,000; issued
\$4,285,000; dated April 1, 1882;
due April 1, 1912; outstanding | 1,964,000 |
| G. | Authorized, \$6,000,000; never is-
sued. | |

Interest, 6 per cent., gold, payable April and Octo-
ber. Trustees, D. O. Mills, New York, and Homer S.
King, San Francisco. [1067]

(44)

Southern Pacific Branch Railway First Mortgage

Gold Bonds; authorized, \$9,000,000; issued \$3,578,000, dated April 1, 1887; due April 1, 1937; outstanding, \$3,533,000. Interest, 6 per cent., gold, payable April and October. Trustee, Union Trust Company of San Francisco.

Stockton & Copperopolis R. R. First Mortgage Gold Bonds; authorized, issued and outstanding, \$500,000; dated January 1, 1875; due January 1, 1905. Interest 5 per cent., gold, payable January and July. Trustee, J. L. Wilcutt, San Francisco.

Southern Pacific R. R. of California, First Consolidated Mortgage Gold Bonds of 1893; authorized, \$58,000,000, and such additional amount of bonds as may be sufficient to retire, bond for bond, outstanding first mortgage bonds of the S. P. R. R. Co., issued under the mortgage dated April 1, 1875; issued, \$28,766,000; dated November 1, 1893; due November 1, 1937; outstanding, \$28,652,000. Interest, 5 per cent., gold, payable May and November. Trustee, Central Trust Company of New York.

NOTE:—Bonds issued under the Stockton & Copperopolis R. R. Mortgage of January 1, 1875, Southern Pacific Branch Ry. Mortgage of November 24, 1886, and Southern Pacific R. R. Co. Mortgage of August 25, 1888 (now satisfied and discharged), to be retired out of the above authorized issue of \$58,000,000.

Northern Railway First Mortgage Gold Bonds of 1877: authorized, \$6,300,000; issued and outstanding, \$5,156,000; dated January 1, 1877; due January 1, 1907. Interest, 6 per cent., gold, payable January

and July. Trustees, Eugene Kelly and Henry B. Laidlaw, both of the City of New York.

Northern Railway First Mortgage Gold Bonds of 1888: author[1068]ized, \$21,000,000; issued and outstanding \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds: authorized \$1,100,000; issued and outstanding, \$1,074,000; dated November 1, 1889; due November 1, 1929. Interest, 5 per cent., gold, payable June and December. Trustee, California Safe Deposit & Trust Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds: authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated January 1, 1867; due January 1, 1912. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

California Pacific R. R. Second Mortgage Gold Bonds: authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

(45)

California Pacific R. R. Third Mortgage Gold Bonds: authorized, \$2,000,000; issued and outstanding, \$1,998,500; dated July 1, 1875; due July 1, 1905. Interest, 6 per cent., gold, payable January and July.

Trustee, Stephen T. Gage of the City of San Francisco, Cal.

California Pacific R. R. Third Mortgage Gold Bonds: authorized, issued, and outstanding, \$1,000,000; dated July 1, 1875; due July 1, 1905. Interest, 3 per cent., gold, payable January and July. Trustee, Stephen T. Gage of the City of San Francisco, Cal. [1069]

Southern Pacific R. R. (of Arizona) First Mortgage Gold Bonds: authorized, issued and outstanding, \$10,000,000; Series A, amounting to \$6,000,000; dated March 1, 1879; due March 1, 1909, and Series B, \$4,000,000; dated March 1, 1880; due March 1, 1910. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. of New Mexico First Mortgage Gold Bonds: authorized, \$5,000,000; issued and outstanding, \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

DIRECTORS (11), elected April 12, 1904:

F. K. Ainsworth (May 19), San Francisco.

E. H. Harriman, Arden, N. Y.

I. W. Hellman, San Francisco.

Wm. F. Herrin, San Francisco.

Homer S. King, San Francisco.

C. H. Markham (May 12), San Francisco.

J. S. Slauson, Los Angeles.

N. T. Smith, San Francisco.

Wm. Sproule, San Francisco.

J. L. Willcutt, San Francisco.

Jas. K. Wilson, San Francisco.

OFFICERS, elected April 14, 1904:

E. H. Harriman, President, Arden, N. Y.

—————, Vice-President.

C. H. Markham, Second Vice-President (May 19), San Francisco [1070]

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New York.

J. L. Willcutt, Secretary, San Francisco.

Alex. Millar, Assistant Secretary, New York.

Alex. Millar, Transfer Agent, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

Joseph Hellen and O. C. Kahn, New York, are Acting Transfer Agents for Bonds of S. P. R. R. Cos. of California and of New Mexico.

From Manual No. 4, of the year 1905, marked Plaintiff's Exhibit " L L L," the title page, index, and such matter as appears on pages 24, 40, 41, 42, 43, 44, 45, 48, 49 and 50, with such emendations and corrections as appear therein in red ink, which I will read into the record as follows:

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

—oOo—

Manual No. 4—July 1, 1905.

—oOo—

Notice:—Officers receiving this volume will confer

a favor on the undersigned by giving him early notice of errors noted, or changes necessary, in the following pages.

Alex. Millar, Secretary.

(Secretary's Files)

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

Manual No. 4—1905

of [1071]

Annual Meetings, Directors, Officers, Capital Stock, Funded Debt, Etc.

July 1, 1905.

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KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 years.

ANNUAL MEETING may be held at San Francisco on last Saturday in May. Notice to be published in one or more papers in the City and County of San Francisco, as the Directors may determine, at least ten days previously, or to be given in writing by the President to each stockholder personally.

Meetings of Directors, whenever necessary, on call of President. [1073]

No specification for close of fiscal year.

CAPITAL STOCK: authorized and issued, \$1,000,000. Shares \$100 each.

DIRECTORS (5), elected May 29, 1905:

E. E. Calvin, San Francisco.

E. T. Dumble, San Francisco.

J. E. Foulds, Berkeley.

J. H. Wallace, San Francisco.

J. L. Wilcutt, San Francisco.

OFFICERS, elected May 29, 1905:

E. E. Calvin, President, San Francisco.

E. T. Dumble, Vice-President, Berkeley.

J. L. Wilcutt, Secretary, San Francisco.

N. T. Smith, Treasurer, San Francisco.

(40)

SOUTHERN PACIFIC COMPANY.

Incorporated by Act of General Assembly of the State of Kentucky approved March 17, 1884, in perpetuity, for the purpose of unifying in management

lines of railroad extending from New Orleans, La., to San Francisco, Cal., to Portland, Ore., and to Ogden, Utah.

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CONTROLLED PROPERTIES

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Central Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast Railway. [1074]

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The Southern Pacific is also the principal owner of the capital stock of the following companies, which are operated by their own organizations, viz. Galveston, Harrisburg & San Antonio Railway, Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix and Salt River Valley Railroad, New York Texas and Mexican Railway, Houston & Texas Central Railroad, Galveston Houston and Northern Railroad, Carson & Colorado Railway, Houston East and West Texas Railway, Houston & Shreveport Railroad, Gila Valley Globe & Northern Railway, Pacific Mail Steamship, Morgan's Louisiana & Texas Railroad & Steamship; and owner of half the stock of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the lines of the New Mexico & Arizona Railroad and the Sonora Railway Companies.

The Morgan's Louisiana & Texas Railroad & Steamship Co. is the principal owner of stocks of the

following companies, which are operated under their own organizations, viz: Gulf Western Texas & Pacific Railway, Direct Navigation Co., Iberia & Vermilion Railroad.

In March, 1902, the Southern Pacific Railroad of California, the Southern Pacific Railroad of Arizona and the Southern Pacific Railroad of New Mexico were consolidated into a new company, the Southern Pacific Railroad Co.

The Southern Pacific Co. also operates steamship lines from New York to New Orleans, La., and Galveston, Texas, and owns 14 ocean steamers. The Pacific Mail Steamship Co. operates lines from San Francisco to ports in Japan, China, and South and Central America, and owns 16 ocean steamers. The Morgan's Louisiana & Texas Railroad & Steamship Co. operates a steam[1075]ship line from New Orleans to Havana, and owns 4 ocean steamers. Companies controlled by the Southern Pacific Co. also operate ferry, harbor, and river lines in Louisiana, Texas, and California, aggregating about 5,000 miles.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company, until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 5, 1905:

Wm. D. Cornish, New York.

Maxwell Evarts (June 20, 1905), New York.

E. H. Harriman, Arden, N. Y.

Marvin Hughitt, Chicago.

H. E. Huntington, San Francisco.

James H. Hyde, New York.

Otto H. Kahn, Morristown, N. J.

R. S. Lovett (June 20, 1905), New York.

Clarence H. Mackay, New York.

D. O. Mills, New York.

M. L. Schiff (April 13, 1905), New York.

James Speyer, New York.

James Stillman, New York.

Charles H. Tweed, New York.

David Willcox, New York.

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EXECUTIVE COMMITTEE (5), elected April 13, 1905:

E. H. Harriman, Chairman.

R. S. Lovett (June 20, 1905).

M. L. Schiff.

James Stillman.

Charles H. Tweed. [1076]

OFFICERS

EXECUTIVE DEPARTMENT, elected April 13, 1905:

E. H. Harriman, President, Arden, N. Y.

Wm. D. Cornish, Vice-President, New York.

J. C. Stubbs, Vice-President, Chicago.

J. Kruttschnitt, Vice-President, Chicago.

E. E. Calvin, Vice-President, San Francisco.

Alex. Millar, Clerk and Secretary, New York.

Joseph Hellen, Asst. Clerk and Asst. Secretary, New York.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

C. B. Seger, Assistant Secretary (March 16, 1905), San Francisco.

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New York.

Geo. M. Thornton, Cashier (March 31, 1904), New York.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Asst. Transfer Agent, New York.

W. H. James, Asst. Transfer Agent for Stock, New York.

H. B. Taylor, Asst. Transfer Agent for Stock, New York.

Union Trust Co., Registrar of Transfers of Common Stock, New York.

Guaranty Trust Co., Registrar of Transfers of Preferred Stock, New York.

LEGAL DEPARTMENT:

New York.

R. S. Lovett, Counsel.

Maxwell Evarts, Attorney.

San Francisco.

W. F. Herrin, Chief Counsel. [1077]

P. F. Dunne, General Attorney.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

E. B. Ryan, Tax Attorney.

Portland.

J. W. Morrow, Right of Way and Tax Agent.

(43)

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. S. Bradt, Assistant Comptroller, New York.

Erastus Young, General Auditor, Omaha.

C. B. Seger, Auditor, San Francisco.

C. J. Wilder, Assistant Auditor, San Francisco.

D. W. Horsburgh, Freight Auditor, San Francisco.

H. S. Lincoln, Assistant Freight Auditor, San Francisco.

E. E. Holton, Ticket Auditor, San Francisco.

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

P. C. Stohr, Asst. Traffic Director, Chicago.

Wm. Sproule, Freight Traffic Manager, San Francisco.

H. A. Jones, Freight Traffic Mgr., Atlantic System, New Orleans.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

Thos. A. Graham, Asst. General Freight Agent, San Francisco.

Chas. S. Fay, General Freight Agent, New Orleans.

W. E. Coman, General Freight and Passenger Agent, Lines in Oregon, Portland.

G. A. Parkyns, Asst. Gen. Freight and Pass. Agent, Los Angeles. [1078]

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

T. H. Goodman, General Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Passenger Agent, San Francisco.

Jas. Horsburg, Jr., Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

F. E. Batturs, Asst. Gen. Pass. and Ticket Agent, New Orleans.

E. B. Carson, General Baggage Agent, San Francisco.

J. B. Richardson, General Agent, New Orleans.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director of Maint. and Operation, Chicago.

W. B. Scott, Assistant Director of Maintenance and Operation, Chicago.

E. E. Calvin, General Manager, Pacific System, San Francisco.

J. P. O'Brien, General Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Mgr., Lines East of Reno, Salt Lake City.

W. S. Palmer, Gen. Supt., Northern District, San Francisco.

R. H. Ingram, Gen. Supt., Southern District, Los Angeles.

M. J. Buckley, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt. of Transportation, San Francisco.

J. A. Naugle, Asst. Gen. Mgr., Sonora Ry., Guaymas, Mex.

J. H. Wallace, Engineer, Maintenance of Way, San Francisco.

(44)

A. E. Roome, Superintendent Telegraph, San Francisco.

H. J. Small, General Supt. Motive Power, San Francisco.

C. W. Jungen, Mgr. Atlantic Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

G. W. Boschke, Chief Engineer, Lines in Oregon, Portland. [1079]

LAND DEPARTMENT:

Wm. H. Mills, Land Agent, C. P. R. R., San Francisco.

Chas. W. Eberlein, Acting Land Agt., S. P. R. R. and O. & C. R. R., San Francisco.

C. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

I. O. Rhodes, Gen. Purchasing Agent, San Francisco.

H. W. Ellicott, Asst. Gen. Purchasing Agent, San Francisco.

MEDICAL DEPARTMENT:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

(45)

SOUTHERN PACIFIC RAILROAD COMPANY.
Incorporated, California, Arizona, and New Mexico,
March 10, 1902, for 50 years.

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(48)

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FUNDED DEBT.

First Mortgage Gold Bonds of S. P. R. R. Co. of California, of 1875, Series A to G, inclusive; authorized, \$46,000,000; issued, \$39,285,000; outstanding, \$16,777,000.

- | | | |
|----|---|------------|
| A. | Authorized and issued, \$15,000,-
000; dated April 1, 1875; due
April 1, 1905; outstanding.... | \$ 330,000 |
| B. | Authorized and issued, \$5,000,000;
dated October 1, 1875; due Oc-
tober 1, 1905; outstanding
[1080] | 3,930,000 |
| C. | Authorized and issued, \$5,000,000;
dated October 1, 1876; due Octo-
ber 1, 1906; outstanding..... | 3,766,000 |

D.	Authorized and issued, \$5,000,000; dated October 1, 1876; due Oc- tober 1, 1906; outstanding.	3,635,000
E.	Authorized and issued, \$5,000,000; dated April 1, 1882; due April 1, 1912; outstanding.	3,152,000
F.	Authorized, \$5,000,000; issued \$4,285,000; dated April 1, 1882, due April 1, 1912; outstanding.	1,964,000
G.	Authorized, \$6,000,000; never is- sued.	

Interest, 6 per cent., gold, payable April and Oc-
tober. Trustees, D. O. Mills, New York, and Homer
S. King, San Francisco.

Southern Pacific Branch Railway First Mortgage
Gold Bonds; authorized, \$9,000,000; issued, \$3,578,-
000; dated April 1, 1887; due April 1, 1937; outstand-
ing \$3,533,000. Interest, 6 per cent., gold, payable
April and October, Trustee, Union Trust Company
of San Francisco.

(49)

Southern Pacific R. R. of California, First Con-
solidated Mortgage Gold Bonds of 1893; authorized,
\$58,000,000, and such additional amount of bonds as
may be sufficient to retire, bond for bond, outstand-
ing first mortgage bonds of the S. P. R. R. Co., issued
under the mortgage dated April 1, 1875; issued \$28,-
766,000; dated September 15, 1893; due November 1,
1937; outstanding, \$27,824,000. Interest 5 per cent.,
gold, payable May and November. Trustee, Central
Trust Company of New York.

NOTE:—Bonds issued under the Stockton & Copperopolis R. R. Mortgage of January 1, 1875, Southern Pacific Branch Ry. Mortgage of November 24, 1886, and Southern Pacific R. R. Co., Mortgage of [1081] August 25, 1888 (now satisfied and discharged), to be retired out of the above authorized issue of \$58,000,000.

Northern Railway First Mortgage Gold Bonds of 1877; authorized, \$6,300,000; issued and outstanding, \$5,156,000; dated January 1, 1877; due January 1, 1907. Interest 6 per cent., gold, payable January and July. Trustees, Eugene Kelly and Henry B. Laidlaw, both of the City of New York.

Northern Railway First Mortgage Gold Bonds of 1888; authorized, \$21,000,000; issued and outstanding, \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds; authorized, \$1,100,000; issued and outstanding, \$1,074,000; dated November 1, 1889; due November 1, 1929. Interest, 5 per cent., gold, payable June and December. Trustee, California Safe Deposit & Trust Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds; authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated January 1, 1867; due January 1, 1912. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

California Pacific R. R. Second Mortgage Gold Bonds; authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

California Pacific R. R. Third Mortgage Gold Bonds: [1082] authorized, \$2,000,000; issued and outstanding, \$1,924,000; dated July 1, 1875; due July 1, 1905. Interest, 6 per cent., gold, payable January and July. Trustee, Stephen T. Gage, of the City of San Francisco, Cal.

California Pacific R. R. Third Mortgage Gold Bonds: authorized, issued and outstanding, \$944,500; dated July 1, 1875; due July 1, 1905. Interest, 3 per cent., gold, payable January and July. Trustee, Stephen T. Gage, of the City of San Francisco, Cal.

(50)

Southern Pacific R. R. (of Arizona) First Mortgage Gold Bonds; authorized, issued and outstanding, \$10,000,000; Series A, amounting to \$6,000,000; dated March 1, 1879; due March 1, 1909; and Series B., \$4,000,000; dated March 1, 1880; due March 1, 1910. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. of New Mexico First Mortgage Gold Bonds; authorized, \$5,000,000; issued and outstanding, \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and

Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. First Refunding Bond Temporary Certificates: Issued and outstanding, \$75,000,000. Interest, 4 per cent., January and July

DIRECTORS (11), elected April 10, 1906: [1083]

F. K. Ainsworth, San Francisco.

E. E. Calvin, San Francisco.

W. D. Cornish, New York.

I.W. Hellman, San Francisco.

W. F. Herrin, San Francisco.

Homer S. King, San Francisco.

Wm. Hood, San Francisco.

N. T. Smith, San Francisco.

H. A. Jones, San Francisco.

J. L. Willcutt, San Francisco.

Jas. K. Wilson, San Francisco.

OFFICERS, elected April 2, 1906:

W. D. Cornish, President, New York.

E. E. Calvin, Vice-President, San Francisco.

W. T. Smith, Second Vice-Pres., San Francisco.

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New York.

J. L. Wilcutt, Secretary, San Francisco.

Jos. Hellen, Assistant Secretary, New York.

C. P. Lincoln, Asst. Secretary, San Francisco.

Alex. Millar, Transfer Agent, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

Joseph Hellen and O. C. Kahn, New York, are act-

ing Transfer Agents for Bonds of S. P. R. R. Cos.
of California and New Mexico.

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From Manual No. 5, for the year 1906, marked
Plaintiff's Exhibit "M M M," the title page and
index and such matter as appears on pages 23, 33, 38,
39, 40, 41, 46, 47 and 48, with [1084] such emendations
and corrections as have been made therein in red ink,
which I will read into the record as follows:

SOUTHERN PACIFIC and AUXILIARY COM-
PANIES.

—oOo—

Manual No. 5—July 1, 1906.

—oOo—

Notice:—Officers receiving this volume will confer
a favor on the undersigned by giving him early notice
of errors noted, or changes necessary, in the following
pages.

Alex. Millar, Secretary.

(Secretary's Files.)

SOUTHERN PACIFIC and AUXILIARY COM-
PANIES.

Manual No. 5—1906.

of

Annual Meetings, Directors, Officers, Capital Stock,
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July 1, 1906.

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Chico and Northern R. R. Co.....	41½

(23)

KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 years.

ANNUAL MEETING at San Francisco, Cal.,
First Wednesday in May at 11 A. M. *

Meetings of Directors, 2nd Wednesday of each
month at 12 o'clock noon.

No specification for close of fiscal year.

CAPITAL STOCK: authorized and issued,
\$1,000,000. Shares \$100 each.

DIRECTORS (5), elected May 1, 1907:

E. E. Calvin, San Francisco.

E. T. Dumble, San Francisco.

J. E. Foulds, Berkeley. [1087]

J. H. Wallace, San Francisco.

J. L. Willcutt, San Francisco.

OFFICERS, elected May 29, 1905:

E. E. Calvin, President, San Francisco.

E. T. Dumble, Vice President, Berkeley.

J. L. Willcutt, Secretary, San Francisco.

C. H. Redington, Treasurer (June 12, 1907), San
Francisco.

* Two weeks notice shall be given either published
daily for at least two weeks preceding the meeting
or by written notice.

(33)

RIO BRAVO OIL CO.

Incorporated, Texas, March 3, 1903, for 50 years.

ANNUAL MEETING, Houston, Texas, second
Monday in January. Written notice to be given at
least five days previously. Meetings of Directors
can be held at any time.

Fiscal year closes June 30.

CAPITAL STOCK: authorized, \$1,000,000; shares \$100 each.

DIRECTORS (5), elected January 8, 1906:

C. C. Barry, Houston.

G. R. Cottingham, Houston.

E. T. Dumble, Houston.

Thornwell Fay, Houston.

W. G. Van Vleck, Houston.

OFFICERS, elected January 8, 1906:

Thornwell Fay, President, Houston.

E. T. Dumble, Vice-President, Houston.

G. R. Cottingham, Secretary, Houston.

B. C. Cushman, Treasurer, Houston.

(38)

SOUTHERN PACIFIC COMPANY.

Incorporated by Act of General Assembly of the State of [1088] Kentucky, approved March 17, 1884, in perpetuity, for the purpose of unifying in management lines of railroad extending from New Orleans, La., to San Francisco, Cal., to Portland, Ore., and to Ogden, Utah.

.

CONTROLLED PROPERTIES.

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Central Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast Railway.

The Southern Pacific is also the principal owner of the capital stock of the following companies, which

are operated by their own organizations, viz. Galveston, Harrisburg & San Antonio Railway, Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix and Salt River Valley Railroad, Houston & Texas Central Railroad, Carson

(39)

& Colorado Railway, Houston East and West Texas Railway, Houston & Shreveport Railroad, Gila Valley Globe & Northern Railway, Pacific Mail Steamship, Morgan's Louisiana & Texas Railroad and Steamship; and owner of half the stock of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the lines of the New Mexico & Arizona Railroad and the Sonora Railway companies.

The Morgan's Louisiana & Texas Railroad & Steamship Co. is the principal owner of stocks of the following companies, which are operated under their own organizations, viz: Direct Navigation Co., Iberia & Vermilion Railroad.

In March, 1902, the Southern Pacific Railroad of California, [1089] the Southern Pacific Railroad of Arizona and the Southern Pacific Railroad of New Mexico were consolidated into a new company, the Southern Pacific Railroad Co.

The Southern Pacific Co. also operates steamship lines from New Orleans to Havana, and from New York to New Orleans, and Galveston, Texas, and owns 16 ocean steamers. The Pacific Mail Steamship Co. operates lines from San Francisco to ports in Japan, China, and South and Central America, and

owns 16 ocean steamers. Companies controlled by the Southern Pacific Co. also operate ferry, harbor and river lines in Louisiana, Texas, and California, aggregating about 5,000 miles.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company, until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 4, 1906:

Wm. D. Cornish, New York.

Henry W. De Forest, Oyster Bay, N. Y.

Maxwell Evarts, New York.

Robert Goelet, Newport, R. I.

E. H. Harriman, Arden, N. Y.

Marvin Hughitt, Chicago.

H. E. Huntington, San Francisco.

R. S. Lovett, New York.

Clarence H. Mackay, New York.

D. O. Mills, New York.

Ogden Mills, Staatsburg, N. Y.

James Stillman, New York.

W. V. S. Thorne, New York.

A. K. Van Deventer, New York.

David Willcox, New York. [1090]

EXECUTIVE COMMITTEE (5), elected April 10, 1906:

E. H. Harriman, Chairman.

H. W. De Forest.

R. S. Lovett.

James Stillman.

David Willcox.

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OFFICERS

EXECUTIVE DEPARTMENT, elected April 10,
1906:

E. H. Harriman, President, Arden, N. Y.

Wm. D. Cornish, Vice-President, New York.

J. C. Stubbs, Vice-President, Chicago.

J. Kruttschnitt, Vice-President, Chicago.

E. E. Calvin, Vice-President, San Francisco.

Alex. Millar, Clerk and Secretary, New York.

Joseph Hellen, Asst. Clerk and Asst. Secretary,
New York.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

C. B. Seger, Assistant Secretary (March 16,
1905), San Francisco.

N. T. Smith, Treasurer, San Francisco.

A. K. Van Deventer, Assistant Treasurer, New
York.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Assistant Transfer Agent, New
York.

W. H. James, Asst. Transfer Agent for Stock,
New York.

H. B. Taylor, Asst. Transfer Agent for Stock,
New York.

Geo. M. Thornton, Cashier, New York.

Union Trust Co., Registrar of Transfers of Com-
mon Stock, New York. [1091]

Guaranty Trust Co., Registrar of Transfers of
Preferred Stock, New York.

LEGAL DEPARTMENT:

New York.

R. S. Lovett, Counsel.

Maxwell Evarts, Attorney.

San Francisco.

W. F. Herrin, Chief Counsel.

P. F. Dunne, General Attorney.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

E. B. Ryan, Tax Attorney.

Portland.

J. W. Morrow, Right of Way and Tax Agent.

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. S. Bradt, Assistant Comptroller, New York.

Erastus Young, General Auditor, Omaha.

C. B. Seger, Auditor, San Francisco.

C. J. Wilder, Auditor of Dining Car and Hotel
Accounts, San Francisco.

D. W. Horsburgh, Freight Auditor, San Fran-
cisco.

G. E. Bissonett, Auditor of Passenger Accounts,
San Francisco.

(41)

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

P. C. Stohr, Asst. Traffic Director, Chicago.

Wm. Sproule, Freight Traffic Manager, San
Francisco. [1092]

H. A. Jones, Freight Traffic Manager, Atlantic System, New Orleans.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

J. G. Stubbs, Asst. General Freight Agent, San Francisco.

Chas. S. Fay, General Freight Agent, New Orleans.

W. E. Coman, General Freight and Passenger Agent, Lines in Oregon, Portland.

Thos. A. Graham, Assistant General Freight and Passenger Agent, Los Angeles.

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

R. A. Donaldson, Asst. Gen. Passenger Agent, San Francisco.

Jas. Horsburgh, Jr., Acting Gen. Pass. Agent, San Francisco.

Paul Shoup, Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

Wm. McMurray, Asst. Gen. Passenger Agent, Portland.

F. E. Batturs, Asst. Gen. Pass. and Ticket Agent, New Orleans.

E. B. Carson, General Baggage Agent, San Francisco.

General Agent, New Orleans.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director of Maint. and Operation, Chicago.

W. B. Scott, Assistant Director of Maintenance and Operation, Chicago.

E. E. Calvin, General Manager, Pacific System, San Francisco.

J. P. O'Brien, General Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Mgr., Line East of Reno, Salt Lake City.

W. S. Palmer, Gen. Supt., Northern District, San Francisco.

R. H. Ingram, Gen. Supt, Southern District, Los Angeles. [1093]

M. J. Buckley, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt. of Transportation, San Francisco.

J. A. Naugle, Asst. Gen. Mgr., Sonora Ry., Guaymas, Mex.

A. E. Roome, Superintendent Telegraph, San Francisco.

H. J. Small, General Supt. Motive Power, San Francisco.

C. W. Jungen, Mgr. Atlantic Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

J. H. Wallace, Asst. Chief Engineer, San Francisco.

G. H. Boschke, Chief Engineer, Lines in Oregon, Portland.

John D. Isaacs, Consulting Engineer, San Francisco.

(42)

LAND DEPARTMENT:

Wm. H. Mills, Land Agent, C. P. R. R., San Francisco.

Chas. W. Eberlein, Acting Land Agt. S. P. R. R. and O. & C. R. R., San Francisco.

C. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

I. O. Rhoades, Gen. Purchasing Agent, San Francisco. ..

H. W. Ellicott, Asst. Gen. Purchasing Agent, San Francisco.

H. C. Pearce, General Storekeeper, San Francisco.

MISCELLANEOUS:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

D. Urquhart, Superintendent Commissary, San Francisco.

E. T. Dumble, Consulting Geologist, San Francisco.

G. L. King, Right of Way and Contract Agent, San Francisco. [1094]

(43)

SOUTHERN PACIFIC RAILROAD COMPANY.
Incorporated, California, Arizona, and New Mexico,
March 10, 1902, for 50 years.

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(46)

FUNDED DEBT

First Mortgage Gold Bonds of S. P. R. R. Co., of
California, or 1875; Series A to G, inclusive; author-
ized \$46,000,000; issued, \$39,285,000; outstanding,
\$5,116,000.

E. Authorized and issued, \$5,000,000;
dated April 1, 1882; due April 1,
1912; outstanding..... \$ 3,152,000

F. Authorized, \$5,000,000; issued
\$4,285,000; dated April 1, 1882;
due April 1, 1912; outstanding 1,964,000

G. Authorized, \$6,000,000; never is-
sued.

Interest, 6 per cent., gold, payable April and Octo-
ber. Trustees, D. O. Mills, New York, and Homer S.
King, San Francisco.

Southern Pacific Branch Railway First Mortgage
Gold Bonds: authorized \$9,000,000; issued, \$3,578,-
000; dated April 1, 1887; due April 1, 1937; out-
standing, \$3,533,000. Interest, 6 per cent., gold, pay-
able April and October. Trustee, Union Trust Com-
pany of San Francisco.

(47)

Southern Pacific R. R. of California, First Con-
solidated Mortgage Gold Bonds of 1893; authorized,

\$58,000,000, [1095] issued, \$28,766,000; dated September 15, 1893; due November 1, 1937; outstanding, \$4,127,500. Interest, 5 per cent., gold, payable May and November. Trustee, Central Trust Company of New York.

Northern Railway First Mortgage Gold Bonds of 1888; authorized \$21,000,000; issued and outstanding, \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds: authorized, \$1,100,000; issued and outstanding, \$1,074,000; dated November 1, 1899; due November 1, 1929. Interest, 5 per cent. gold, payable June and December. Trustee, California Safe Deposit & Trust Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds: authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated [1096] January 1, 1867; due January 1, 1912. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

California Pacific R. R. Second Mortgage Gold Bonds: authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

Southern Pacific R. R. (of Arizona) First Mort-

gage Gold Bonds; authorized, issued and outstanding, \$10,000,000; Series A, amounting to \$6,000,000; dated March 1, 1879; due March 1, 1909; and Series B, \$4,000,000; dated March 1, 1880; due March 1, 1910. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

(48)

Southern Pacific R. R. of New Mexico First Mortgage Gold Bonds: authorized, \$5,000,000; issued and outstanding, \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. First Refunding Bonds: authorized, \$160,000,000; issued and outstanding, \$81,165,000; dated January 3, 1905; due January 1, 1955. Interest, 4 per cent., January and July. Trustee, The Equitable Trust Co. of New York.

DIRECTORS (11), elected April 9, 1907:

F. K. Ainsworth (Nov. 2, 1905), San Francisco.

E. E. Calvin, San Francisco. [1097]

Wm. D. Cornish (Aug. 30, 1905), New York.

I. W. Hellman (Sept. 21, 1905), San Francisco.

W. F. Herrin (Oct. 26, 1905), San Francisco.

Wm. Hood, San Francisco.

Homer S. King (Aug. 3, 1905), San Francisco.

C. H. Redington (June 6, 1907), San Francisco.

H. A. Jones (Aug. 25, 1905), San Francisco.

J. L. Willcutt, San Francisco.

Jas. K. Wilson, San Francisco.

OFFICERS, elected April 9, 1907:

Wm. D. Cornish, President (Aug. 30, 1905), New York.

E. E. Calvin, Vice-President (Aug. 30, 1905), San Francisco.

C. H. Redington, Second Vice-President (June 6, 1907), San Francisco.

Wm. Mahl, Comptroller (November 2, 1905), New York.

A. K. Van Deventer, Treasurer (June 6, 1907), New York.

C. H. Redington, Assistant Treasurer (June 6, 1907), San Francisco.

J. L. Willcutt, Secretary, San Francisco.

Jos. Hellen, Assistant Secretary (Aug. 30, 1905), New York.

Chas. P. Lincoln, Assistant Secretary, San Francisco.

Alex. Millar, Transfer Agent, New York.

Joseph Hellen, Transfer Agent, New York.

Otto C. Kahn, Transfer Agent, New York.

W. H. James, Transfer Agent for Bonds, New York.

James Watkins, Transfer Agent for Bonds, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

Joseph Hellen and O. C. Kahn, New York, are act-

ing Transfer Agents for Bonds of S. P. R. R. Cos. of California and of New Mexico. [1098]

From Manual No. 6, for the year 1907, marked Plaintiff's Exhibit "N N N", the title page and index and such matter as appears upon pages 28, 48, 55, 56, 57, 58 and 59, together with the corrections in red ink found therein, which I will read into the record as follows:

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

—oOo—

Manual No. 6—July 1, 1907.

—oOo—

Notice:—Officers receiving this volume will confer a favor on the undersigned by giving him early notice of errors noted, or changes necessary, in the following pages.

Alex. Millar, Secretary.

(Secretary's Files)

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

Manual No. 6—1907.

of

Annual Meetings, Directors, Officers, Capital Stock,
Funded Dept, Etc.

July 1, 1907.

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KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 Years.

ANNUAL MEETING, San Francisco, Cal., first Wednesday in May, at 11 A.M. Two weeks' notice to be given, either published daily for at least two weeks previously or by writing.

Regular meeting of Directors, second Wednesday of each month at 12, noon.

No specification for close of fiscal year. [1101]

CAPITAL STOCK: authorized and issued, \$1,000,000. Shares \$100 each.

DIRECTORS (5), elected May 1, 1907:

E. E. Calvin, San Francisco.

E. T. Dumble, San Francisco.

J. E. Foulds, San Francisco.

W. R. Scott, (July 30, 1908), San Francisco.

C. H. Redington (July 30, 1908), San Francisco.

OFFICERS, elected May 1, 1907:

E. E. Calvin, President, San Francisco.

E. T. Dumble, Vice-President, San Francisco.

J. L. Willcutt, Secretary, San Francisco.

C. H. Redington, Treasurer (June 12, 1907), San Francisco.

C. B. Seger, Auditor (July 30, 1908), San Francisco.

(48)

RIO BRAVO OIL CO.

Incorporated, Texas, March 3, 1903, for 50 Years.

ANNUAL MEETING, Houston, Texas, second Monday in January. Written notice to be given at least five days previously.

Meetings of Directors can be held at any time.

Fiscal year closes June 30.

CAPITAL STOCK: authorized, \$1,000,000; shares \$100 each.

DIRECTORS (5), elected January 14, 1907:

G. R. Cottingham, Houston.

E. T. Dumble, Houston.

Thornwell Fay, Houston.

*E. H. Harriman, New York.

W. G. Van Vleck, Houston.

OFFICERS, elected January 14, 1907: [1102]

*E. H. Harriman, President, New York.

*Thornwell Fay, Vice-President, Houston.

C. R. Cottingham, Secretary, Houston.

B. C. Cushman, Treasurer, Houston.

*Elected May 14, 1907.

(55)

SOUTHERN PACIFIC COMPANY.

Incorporated by Act of General Assembly of the State of Kentucky approved March 17, 1884, in perpetuity, for the purpose of unifying in management lines of railroad extending from New Orleans, La., to San Francisco, Cal., to Portland, Ore., and to Ogden, Utah.

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TRANSPORTATION LINES.

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Central Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast Railway.

The Southern Pacific is also the principal owner of the capital stock of the following companies, which operate their own lines, viz: Galveston, Harrisburg & San Antonio Railway, Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix and Salt River Valley Railroad, Houston & Texas Central Railroad, Carson & Colorado Railway, California Northeastern Railway, Chico & Northern Railroad, Coos Bay, Roseburg & Eastern Railroad

(56)

and Navigation, Houston East and West Texas Railway, Inter-California Railway, Nevada & California Railway; Phoenix & [1103] Eastern Railroad, San Francisco & Napa Railway, Pacific Mail Steamship, Morgan's Louisiana & Texas Railroad and Steamship; and owner of half the stock of the Northwestern Pacific Railroad Co. and of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the lines of the New Mexico & Arizona Railroad and the Sonora Railway companies.

The Morgan's Louisiana & Texas Railroad & Steamship Co. is the principal owner of stocks of the following companies, which are operated under their own organizations, viz: Direct Navigation Co., Iberia & Vermilion Railroad.

The Southern Pacific Co. also operates steamship lines from New Orleans to Havana, and from New York to New Orleans, and Galveston, Texas, and owns 19 ocean steamers. The Pacific Mail Steamship Co. operates lines from San Francisco to ports

in Japan, China, and South and Central America, and owns 16 ocean steamers. Companies controlled by the Southern Pacific Co. also operate ferry, harbor and river lines in Louisiana, Texas, and California. The total of all routes is about 15,000 miles.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 3, 1907:

Wm. D. Cornish, New York.

W. Bayard Cutting (April 11, 1907), New York.

Maxwell Evarts, New York.

Henry W. de Forest, Oyster Bay, N. Y.

Robert Goelet, Newport, R. I.

E. H. Harriman, New York.

Marvin Hughitt, Chicago. [1104]

H. E. Huntington, San Francisco.

R. S. Lovett, New York.

Clarence H. Mackay, New York.

Wm. Mahl (July 8, 1907), New York.

Ogden Mills, Staatsburg, N. Y.

James Stillman, New York.

W. V. S. Thorne, New York.

A. K. Van Deventer, New York.

EXECUTIVE COMMITTEE (5), elected April 11, 1907:

E. H. Harriman, Chairman.

Hy. W. deForest.

R. S. Lovett.

Ogden Mills (June 20, 1907).

James Stillman.

(57)

OFFICERS.

EXECUTIVE DEPARTMENT, elected April 11,
1907:

E. H. Harriman, President, New York.

Wm. D. Cornish, Vice-President, New York.

J. C. Stubbs, Vice-President, Chicago.

J. Kruttschnitt, Vice-President, Chicago.

E. E. Calvin, Vice-President, San Francisco.

Alex. Millar, Clerk and Secretary, New York.

Joseph Hellen, Asst. Clerk and Asst. Secretary,
New York.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

C. B. Seger, Assistant Secretary (March 16, 1905)
San Francisco.

A. D. McDonald, Assistant Secretary (Dec. 20,
1906), San Francisco.

A. K. Van Deventer, Treasurer (May 1, 1907),
New York. [1105]

C. H. Redington, Assistant Treasurer (May 23,
1907), San Francisco.

Geo. M. Thornton, Cashier, New York.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Assistant Transfer Agent, New
York.

W. H. James, Asst. Transfer Agent for Stock, New
York.

H. B. Taylor, Asst. Transfer Agent for Stock, New York.

Union Trust Co., Registrar of Transfers of Common Stock, New York.

Guaranty Trust Co., Registrar of Transfers of Preferred Stock, New York.

LEGAL DEPARTMENT:

New York.

R. S. Lovett, Counsel.

Maxwell Evarts, Attorney.

San Francisco.

Wm. F. Herrin, Chief Counsel.

P. F. Dunne, General Attorney.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

E. B. Ryan, Tax Attorney.

Portland.

J. W. Morrow, Right of Way and Tax Agent.

Chicago.

F. C. Dillard, Attorney.

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. B. Johnson, Assistant Comptroller, New York.

[1106]

Erastus Young, General Auditor, Ohama.

C. B. Seger, Auditor, San Francisco.

C. J. Wilder, Auditor of Dining Car and Hotel Accounts, San Francisco.

D. W. Horsburgh, Freight Auditor, San Francisco.

G. E. Bissonett, Auditor of Passenger Accounts, San Francisco.

(58)

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

P. C. Stohr, Asst. Traffic Director, Chicago.

H. A. Jones, Freight Traffic Manager, San Francisco.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

C. J. Jones, Asst. General Freight Agent, San Francisco.

J. G. Stubbs, Asst. General Freight Agent, San Francisco.

T. A. Graham, Assistant General Freight and Passenger Agent, Los Angeles.

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

Jas. Horsburgh, Jr., Gen. Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Passenger Agent, San Francisco.

Paul Shoup, Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

R. B. Miller, Gen. Freight Agent, Lines in Oregon, Portland.

W. E. Coman, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

W. D. Skinner, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

Wm. McMurray, Gen. Passenger Agent, Lines in Oregon, Portland. [1107]

J. M. Scott, Asst. Gen. Passenger Agent, Lines in Oregon, Portland.

E. B. Carson, General Baggage Agent, San Francisco.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director of Maint. and Operation, Chicago.

W. B. Scott, Assistant Director of Maintenance and Operation, Chicago.

E. E. Calvin, General Manager, Pacific System, San Francisco.

J. P. O'Brien, General Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Mgr., Line East of Reno, Salt Lake City.

W. S. Palmer, Gen. Supt., Northern District, San Francisco.

R. H. Ingram, Gen. Supt., Southern District, Los Angeles.

M. J. Buckley, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt. of Transportation, San Francisco.

Epes Randolph, Gen. Mgr. Sonora Ry., Tucson, Ariz.

A. E. Roome, Superintendent Telegraph, San Francisco.

H. J. Small, General Supt. Motive Power, San Francisco.

C. W. Jungen, Mgr. Atlantic Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

J. H. Wallace, Asst. Chief Engineer, San Francisco.

G. H. Boschke, Chief Engineer, Lines in Oregon, Portland.

John D. Isaacs, Consulting Engineer, Chicago.

(59)

LAND DEPARTMENT:

Henry Conlin, Acting Land Agt., S. P. R. R. (6/11/08) and O. & C. R. R. (6/15/08), San Francisco.

C. C. Gibbs, Land Commissioner, San Antonio.

[1108]

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

I. O. Rhoades, Gen. Purchasing Agent, San Francisco.

H. W. Ellicott, Asst. Gen. Purchasing Agent, San Francisco.

H. C. Pearce, General Storekeeper, San Francisco.

MISCELLANEOUS:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

D. Urquhart, Superintendent Commissary, San Francisco.

E. T. Dumble, Consulting Geologist, San Francisco.

G. L. King, Right of Way and Contract Agent, San Francisco.

From Manual No. 7, for the year 1908, the title page and index, together with such matter as appears upon pages 35, 58, 64, 65, 66, 67, 68, 69, 72, 73 and 74, together with the corrections appearing therein in red ink, which I will read into the record as follows; said manual being marked Plaintiff's Exhibit "OOO".

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

—oOo—

Manual No. 7—July 1, 1908.

—oOo—

Notice:—Officers receiving this volume will confer a favor on the undersigned by giving him early notice of errors noted, or changes necessary, in the following pages.

Alex. Millar, Secretary. [1109]
(Secretary's Files)

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

Manual No. 7—1908.

of

Annual Meetings, Directors, Officers, Capital Stock,
Funded Debt, etc.

July 1, 1908.

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KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 Years.

ANNUAL MEETING, San Francisco, first Wednesday in May, at 11 A.M. Two weeks' notice to be given, either published daily for at least two weeks previously or by writing.

Regular meeting of Directors, second Wednesday of each month at 12, noon.

No specification for close of fiscal year.

CAPITAL STOCK: authorized and issued, \$1,-000,000. Shares \$100 each.

DIRECTORS (5), elected May 1, 1907:

E. E. Calvin, San Francisco.

E. T. Dumble, San Francisco.

J. E. Foulds, San Francisco.

C. H. Redington (July 30, 1908), San Francisco.

W. R. Scott (July 30, 1908), San Francisco.

OFFICERS, elected May 1, 1907: [1112]

E. E. Calvin, President, San Francisco.

E. T. Dumble, Vice-President, San Francisco.

G. L. King,

J. L. Wilcutt, Secretary (Jan. 1, 1909), San Francisco.

C. H. Redington, Treasurer (June 12, 1907), San Francisco.

C. B. Seger, Auditor (1908), San Francisco.

(58)

RIO BRAVO OIL CO.

Incorporated, Texas, March 3, 1903, for 50 Years.

ANNUAL MEETING, Houston, Texas, second Monday in January. Written notice to be given at least five days previously.

Meetings of Directors can be held at any time.

Fiscal year closes June 30.

CAPITAL STOCK: authorized, \$1,000,000; issued \$850,000. Shares \$100 each.

DIRECTORS (5), elected January 13, 1908:

G. R. Cottingham, Houston.

E. T. Dumble, Houston.

Thornwell Fay, Houston.

E. H. Harriman, New York.

W. G. Van Vleck, Houston.

OFFICERS, elected January 13, 1908:

E. H. Harriman, President, New York.

Thornwell Fay, Vice-President, Houston.

G. R. Cottingham, Secretary, Houston.

B. C. Cushman, Treasurer, Houston.

(64)

SOUTHERN PACIFIC COMPANY.

Incorporated by Act of General Assembly of the State of Kentucky, approved March 17, 1884, in perpetuity, for [1113] the purpose of unifying in management lines of railroad extending from New Orleans, La., to San Francisco, Cal., to Portland, Ore., and to Ogden, Utah.

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TRANSPORTATION LINES.

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Central Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast Railway.

The Southern Pacific is also the principal owner of the capital stock of the following companies, which operate their own lines, viz: Galveston, Harrisburg & San Antonio Railway,

(65)

Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix Railroad, Houston & Texas Central Railroad, Cananea Yaqui River & Pacific Railway, California Northeastern Railway, Chico & Northern Railroad, Coast Line Railway, Coos Bay, Roseburg & Eastern Railroad and Navigation, Houston East and West Texas Railway, Houston & Shreveport Railroad, Gila Valley, Globe & Northern Railway, Houston & Shreveport Railroad, Gila Valley Globe & Northern Railway, Inter-California Railway, Nevada & California Railway, Phoenix & Eastern Railroad, San Bernardino & Redlands Railroad, San Francisco & Napa Railway, Pacific Mail Steamship, Morgan's Louisiana & Texas Railroad and Steamship; and owner of half of the stock of the Northwestern Pacific Railroad Co., and of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the

lines of the New Mexico & Arizona Railroad and the [1114] Sonora Railway Companies.

The Morgan's Louisiana & Texas Railroad & Steamship Co. is the principal owner of stocks of the following companies, which are operated under their own organizations, viz: Direct Navigation Co., Iberia & Vermilion Railroad.

The Southern Pacific Co. also operates steamship lines from New Orleans to Havana, and from New York to New Orleans, and Galveston, Texas, and owns 21 ocean steamers. The Pacific Mail Steamship Co. operates lines from San Francisco to ports in Japan, China, and South and Central America, and owns 16 ocean steamers. Companies controlled by the Southern Pacific Co. also operate ferry, harbor and river lines in Louisiana, Texas, and California. The total of all routes is about 15,000 miles.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 8, 1908:

Wm. D. Cornish, New York.

W. Bayard Cutting, New York.

Maxwell Evarts, New York.

Henry W. de Forest, Oyster Bay, N. Y.

Robert Goelet, Newport, R. I.

E. H. Harriman, New York.

Marvin Hughitt, Chicago.

H. E. Huntington, San Francisco.

R. S. Lovett, New York.

Clarence H. Mackay, New York.

Wm. Mahl, New York.

Ogden Mills, Staatsburg, N. Y. [1115]

W. V. S. Thorne, New York.

Frank A. Vanderlip, New York.

A. K. Van Deventer, New York.

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EXECUTIVE COMMITTEE (5), elected April 16,
1908:

E. H. Harriman, Chairman.

Hy. W. de Forest.

R. S. Lovett.

Ogden Mills.

Frank A. Vanderlip.

OFFICERS.

EXECUTIVE DEPARTMENT, elected April 16,
1908:

E. H. Harriman, President, New York.

Wm. D. Cornish, Vice-President, New York.

J. C. Stubbs, Vice-President, Chicago.

J. Kruttschnitt, Vice-President, Chicago.

E. E. Calvin, Vice-President, San Francisco.

Alex. Millar, Clerk and Secretary, New York.

Joseph Hellen, Asst. Clerk and Asst. Sec., New
York.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

C. B. Seger, Asst. Secretary (July 28, 1908), San
Francisco.

W. F. Ingram, Assistant Secretary, San Fran-
cisco.

A. K. Van Deventer, Treasurer, New York.

C. H. Redington, Assistant Treasurer, San Francisco.

Geo. M. Thornton, Cashier, New York.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Transfer Agent for Bonds, New York.

R. Troop, Transfer Agent for Bonds, New York.

Union Trust Co., Registrar of Transfers of Common Stock, New York. [1116]

Guaranty Trust Co., Registrar of Transfers of Preferred Stock, New York.

LEGAL DEPARTMENT:

New York.

R. S. Lovett, Counsel.

Maxweell Evarts, Attorney.

San Francisco.

Wm. F. Herrin, Chief Counsel.

P. F. Dunne, General Attorney.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

E. B. Ryan, Tax Attorney.

Portland.

J. W. Morrow, Right of Way and Tax Agent.

Chicago.

F. C. Dillard, Attorney.

(67)

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. B. Johnson, Assistant Comptroller, New York.

Erastus Young, General Auditor, Omaha.

C. B. Seger, Auditor, San Francisco.

W. F. Ingram, Assistant Auditor, San Francisco.

D. W. Horsburgh, Auditor of Freight Accts., San Francisco.

G. D. Smith, Asst. Auditor of Freight Accts., San Francisco.

G. E. Bissonett, Auditor of Pass. Accounts, San Francisco.

R. Adams, Auditor of Disbursements, San Francisco.

C. J. Wilder, Auditor of Dining Car and Hotel Accounts, San Francisco. [1117]

O. F. Giffin, Auditor of Equipment Accounts, San Francisco.

J. M. Brewer, Freight Claim Agent, San Francisco.

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

P. C. Stohr, Asst. Traffic Director, Chicago.

H. A. Jones, Freight Traffic Manager, San Francisco.

G. W. Luce, General Freight Agent, San Francisco.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

C. J. Jones, Asst. General Freight Agent, San Francisco.

J. G. Stubbs, Asst. General Freight Agent, San Francisco.

T. A. Graham, Assistant General Freight and Passenger Agent, Los Angeles.

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

Jas. Horsburgh, Jr., Gen. Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Pass. Agent, San Francisco.

Paul Shoup, Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

R. B. Miller, Gen. Freight Agent, Lines in Oregon, Portland.

W. E. Cowan, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

W. D. Skinner, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

Wm. McMurray, Gen. Passenger Agent, Lines in Oregon, Portland.

J. M. Scott, Asst. Gen. Passenger Agent, Lines in Oregon, Portland. [1118]

E. B. Carson, General Baggage Agent, San Francisco.

H. P. Thrall, Mail Traffic Manager, Chicago.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director of Maint. and Operation, Chicago.

W. B. Scott, Asst. Director of Maint. and Operation, Chicago.

W. A. Worthington, Asst. to Director of Maint. and Operation, Chicago.

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TRANSPORTATION DEPARTMENT — Continued:

E. E. Calvin, Gen. Manager, Pacific System, San Francisco.

J. P. O'Brien, Gen. Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Manager Line East of Reno, Salt Lake City.

J. H. Young, Gen. Supt., Northern District, San Francisco.

R. H. Ingram, Gen. Supt. Southern District, Los Angeles.

M. J. Buckley, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt of Transportation, San Francisco.

Epes Randolph, Gen. Manager, Sonora Ry., Tucson, Ariz.

F. S. Rawlins, Superintendent Telegraph, San Francisco.

H. J. Small, Gen. Supt. Motive Power, San Francisco.

C. W. Jungen, Mgr. Atl. Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

J. Q. Barlow, Asst. Chief Engineer, San Francisco.

G. H. Boschke, Chief Engr., Lines in Oregon, Portland.

John D. Isaacs, Consulting Engineer, Chicago.

LAND DEPARTMENT: [1119]

Henry Conlin, Acting Land Agt., S. P. R. R. and O. & C. R. R., San Francisco.

C. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

I. O. Rhoades, Gen. Purchasing Agent, San Francisco.

H. C. Pearce, General Storekeeper, San Francisco.

MISCELLANEOUS:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

D. Urquhart, Superintendent Commissary, San Francisco.

E. T. Dumble, Consulting Geologist, San Francisco.

G. L. King, Right of Way and Contract Agent, San Francisco.

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SOUTHERN PACIFIC RAILROAD CO.

Incorporated, California, Arizona, and New Mexico,
March 10, 1902, for 50 years.

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(72)

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FUNDED DEBT.

First Mortgage Gold Bonds of S. P. R. R. Co., of California, of 1875; series A to G, inclusive; authorized, \$46,000,000; issued, \$39,285,000; outstanding, \$5,111,000.

E Authorized and issued, \$5,000,000;
dated April 1, 1882; due April 1,
1912; outstanding \$3,147,000

F. Authorized, \$5,000,000; issued, \$4,
285,000; dated April 1, 1882;
due April 1, 1912; outstanding 1,964,000
[1120]

G. Authorized, \$6,000,000; never issued.

Interest, 6 per cent., gold, payable April and October. Trustees, D. O. Mills, New York, and Homer S. King, San Francisco.

Southern Pacific Branch Railway First Mortgage Gold Bonds; authorized, \$9,000,000; issued, \$3,578,000; dated April 1, 1887; due April 1, 1937; outstanding, \$3,533,000. Interest, 6 per cent., gold, payable April and October. Trustee, Union Trust Company of San Francisco.

Southern Pacific R. R. of California, First Consolidated Mortgage Gold Bonds of 1893; authorized, \$58,000,000; issued \$28,766,000; dated September 15, 1893; due November 1, 1937; outstanding, \$4,127,500. Interest, 5 per cent., gold, payable May and November. Trustee, Central Trust Company of New York.

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Northern Railway First Mortgage Gold Bonds of 1888: authorized, \$21,000,000; issued and outstand-

ing, \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds: authorized, \$1,100,000; issued and outstanding, \$1,074,000; dated November 1, 1899; due November 1, 1929. Interest, 5 per cent., gold, payable June and December. Trustee, California Safe Deposit & Trust Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds: authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated January 1, 1867; due January 1, 1912. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

[1121]

California Pacific R. R. Second Mortgage Gold Bonds: authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest, $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

Southern Pacific R. R. (of Arizona) First Mortgage Gold Bonds: authorized, issued and outstanding, \$10,000,000; Series A, amounting to \$6,000,000: dated March 1, 1879; due March 1, 1909; and Series B, \$4,000,000; dated March 1, 1880; due March, 1910. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman, and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. of New Mexico First Mortgage Gold Bonds: authorized, \$5,000,000; issued and outstanding, \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest, 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. First Refunding Bonds: authorized, \$160,000,000; issued and outstanding, \$88,489,000; dated January 3, 1905; due January 1, 1955. Interest, 4 per cent., January and July. Trustee, The Equitable Trust Co. of New York.

DIRECTORS (11), elected April 14, 1908:

F. K. Ainsworth, San Francisco.

E. E. Calvin, San Francisco.

Wm. D. Cornish, E. H. Harriman (12/3/08), New York.

I. W. Hellman, San Francisco.

Wm. F. Herrin, San Francisco. [1122]

Wm. Hood, San Francisco.

H. A. Jones, San Francisco.

Homer S. King, San Francisco.

C. H. Redington, San Francisco.

W. R. Scott ("), San Francisco.

Jas. K. Wilson, San Francisco.

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OFFICERS, elected April 16, 1908:

E. H. Harriman, President (Dec. 3/08), New York.

E. E. Calvin, Vice-President, San Francisco.

C. H. Redington, Second Vice-President, San Francisco.

Wm. Mahl, Comptroller, New York.

A. K. Van Deventer, Treasurer, New York.

C. H. Redington, Assistant Treasurer, San Francisco.

G. L. King, Secretary (Jany. 1, 1909), San Francisco.

Jos. Hellen, Assistant Secretary, New York.

Chas. P. Lincoln, Assistant Secretary, San Francisco.

C. B. Seger, Auditor (1908), San Francisco.

Alex. Millar, Transfer Agent, New York.

Joseph Hellen, Transfer Agent, New York.

Otto C. Kahn, Transfer Agent, New York.

W. H. James, Transfer Agent for Bonds, New York.

James Watkins, Transfer Agent for Bonds, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

Joseph Hellen and O. C. Kahn, New York, are Acting Transfer Agents for Bonds of S. P. R. R. Cos. of California and of New Mexico.

Alfred S. Donaw, Statutory Agent in Arizona (May 4/09), Tucson.

J. A. Mahoney, Statutory Agent in N. Mexico, Deming. [1123]

From Manual No. 8, for the year 1909, marked Plaintiff's Exhibit "PPP", the title page and index and such matter as appears upon pages 36, 60, 66, 67, 68, 69, 70, 71, 74, 75 and 76, together with the correc-

tions appearing therein in red ink, which I will read into the record as follows:

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

—oOo—

Manual No. 8—November 1, 1909.

—oOo—

Notice:—Officers receiving this volume will confer a favor on the undersigned by giving him early notice of errors noted, or changes necessary, in the following pages.

Alex. Millar, Secretary.

SOUTHERN PACIFIC and AUXILIARY COMPANIES.

Manual No. 8—1909.

of

Annual Meetings, Directors, Officers, Capital Stock,
Funded Debt, Etc.

November 1, 1909.

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KERN TRADING & OIL CO.

Incorporated, California, May 22, 1903, for 50 years.

ANNUAL MEETING, San Francisco, first Wednesday in May, at 11 A.M. Two weeks' notice to be given, either published daily for at least two weeks previously or by writing.

Regular meeting of Directors, second Wednesday of each month, at 12, noon.

No specification for close of fiscal year.

CAPITAL STOCK: authorized and issued, \$1,000,000. Shares \$100 each.

DIRECTORS (5), elected May 1, 1907:

E. E. Calvin, San Francisco.

E. T. Dumble, San Francisco.

J. E. Foulds, San Francisco.

C. H. Redington (July 30, 1908), San Francisco.

W. R. Scott (July 30, 1908), San Francisco.

OFFICERS, elected May 1, 1907:

E. E. Calvin, President, San Francisco.

E. T. Dumble, Vice-President, San Francisco.

G. L. King, Secretary (Jan. 1, 1909), San Francisco.

C. H. Redington, Treasurer (June 12, 1907), San Francisco.

C. B. Seger, Auditor (1908), San Francisco.

(60)

RIO BRAVO OIL CO.

Incorporated, Texas, March 3, 1903, for 50 years.

[1127]

ANNUAL MEETING, Houston, Texas, second Monday in January. Written notice to be given at least five days previously.

Meetings of Directors can be held at any time.

Fiscal year closes June 30.

CAPITAL STOCK: authorized, \$1,000,000; issued, \$850,000; shares \$100 each.

DIRECTORS (5), elected January 11, 1909:

G. R. Cottingham, Houston.

E. T. Dumble, Houston.

Thornwell Fay, Houston.

R. S. Lovett (Nov. 9), New York.

W. G. Van Vleck, Houston.

OFFICERS, elected January 11, 1909:

R. S. Lovett, President (Nov. 9), New York.

Thornwell Fay, Vice-President, Houston.

G. R. Cottingham, Secretary, Houston.

B. C. Cushman, Treasurer, Houston.

(66)

SOUTHERN PACIFIC COMPANY.

Incorporated by Act of General Assembly of the State of Kentucky, approved March 17, 1884, in perpetuity, for the purpose of unifying in management lines of railroad extending from New Orleans, La., to San Francisco, Cal., to Portland, Ore., and to Ogden, Utah.

.

The Southern Pacific Company is the principal owner of the capital stock of the following companies, and operates them under leases to it: Cen-

tral Pacific Railway, Oregon and California Railroad, Southern Pacific Railroad, South Pacific Coast [1128] Railway, Nevada & California Railway.

(67)

The Southern Pacific also owns all the stock of the following companies, whose lines are leased to the Southern Pacific Railroad Co.: Coast Line Railway, Inter-California Railway, San Bernardino & Redlands Railroad, San Francisco & Napa Railway; and of the California Northeastern Railway, which is leased to the Central Pacific Railway Co.

The Southern Pacific is also the principal owner of the capital stock of the following companies, which operate their own lines, viz: Galveston, Harrisburg & San Antonio Railway, Texas and New Orleans Railroad, Louisiana Western Railroad, Maricopa and Phoenix Railroad, Houston & Texas Central Railroad, Coos Bay, Roseburg & Eastern Railroad and Navigation, Houston, East and West Texas Railway, Houston & Shreveport Railroad, Gila Valley, Globe & Northern Railway, Phoenix & Eastern Railroad, Pacific Mail Steamship, Morgan's Louisiana & Texas Railroad and Steamship; and owner of half the stock of the Northwestern Pacific Railroad Co. and of the Sunset Railroad Co.; and it operates under leases from the Atchison, Topeka & Santa Fe the lines of the New Mexico & Arizona and the Sonora Railway companies.

The Morgan's Louisiana & Texas Railroad & Steamship Co. is the principal owner of stocks of the following companies, which are operated under their

own organizations, viz: Direct Navigation Co., Iberia & Vermilion Railroad.

The Southern Pacific Co. also operates steamship lines from New Orleans to Havana, and from New York to New Orleans, and Galveston, Texas, and owns 21 ocean steamers. The Pacific Mail Steamship Co. operates lines from San Francisco to ports [1129] in Japan, China, and South and Central America, and owns 15 ocean steamers. Companies controlled by the Southern Pacific Co. also operate ferry, harbor and river lines in Louisiana, Texas and California. The total of all routes is about 15,000 miles.

The Mojave Division of the Southern Pacific Railroad, 242 miles, is leased to the Atchison, Topeka & Santa Fe Railway Company until 1979, at an annual rental of \$218,133.

DIRECTORS (15), elected April 7, 1909:

W. Bayard Cutting, New York.

Henry W. de Forest, Oyster Bay, N. Y.

Robert Goelet, Newport, R. I.

Robert W. Goelet, Newport, R. I.

Marvin Hughitt, Chicago.

H. E. Huntington, New York.

R. S. Lovett, New York.

Clarence H. Mackay, New York.

Ogden Mills, Staatsburg, N. Y.

Charles A. Peabody, New York.

Wm. Rockefeller (Sept. 14), New York.

J. H. Schiff (Sept. 14), New York.

W. V. S. Thorne, New York.

Frank A. Vanderlip, New York.

(One vacancy).

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EXECUTIVE COMMITTEE (6), elected April 13,
1909:

R. S. Lovett, Chairman.

Hy. W. de Forest.

Ogden Mills. [1130]

Wm. Rockefeller (Sept. 14).

J. H. Schiff (Sept. 14).

Frank A. Vanderlip.

OFFICERS.

EXECUTIVE DEPARTMENT, elected April 13,
1909:

R. S. Lovett, President, (Oct. 28), New York.

J. C. Stubbs, Vice-President, Chicago.

J. Kruttschnitt, Vice-President, Chicago.

E. E. Calvin, Vice-President, San Francisco.

Wm. Mahl, Vice-President (Oct. 28), New York.

Alex. Millar, Clerk and Secretary, New York.

Joseph Hellen, Asst. Clerk and Asst. Sec., New
York.

John B. Weaver, Assistant Clerk, Beechmont, Ky.

C. B. Seger, Asst. Secretary, San Francisco.

W. F. Ingram, Assistant Secretary, San Fran-
cisco.

A. K. Van Deventer, Treasurer, New York.

C. H. Redington, Assistant Treasurer, San Fran-
cisco.

Geo. M. Thornton, Cashier, New York.

Geo. S. Evans, Cashier, San Francisco.

Alex. Millar, Transfer Agent, New York.

Otto C. Kahn, Transfer Agent for Bonds, New York.

R. Troup, Transfer Agent for Bonds, New York.

Union Trust Co., Registrar of Transfers of Common Stock, New York.

Guaranty Trust Co., Registrar of Transfers of Preferred Stock, New York.

LEGAL DEPARTMENT.

New York. [1131]

General Counsel.

Maxwell Evarts, Attorney.

Gordon M. Buck, Attorney.

San Francisco.

Wm. F. Herrin, Chief Counsel.

P. F. Dunne, General Attorney.

J. E. Foulds, Attorney.

D. R. Sessions, Claims Attorney.

Jere T. Burke, Tax Attorney.

Portland.

J. W. Morrow, Right of Way and Tax Agent.

Chicago.

F. C. Dillard, Interstate Commerce Attorney.

(69)

ACCOUNTING DEPARTMENT:

Wm. Mahl, Comptroller, New York.

H. B. Johnson, Assistant Comptroller, New York.

Erastus Young, General Auditor, Omaha.

C. B. Seger, Auditor, San Francisco.

W. F. Ingram, Assistant Auditor, San Francisco.

D. W. Horsburgh, Auditor of Freight Accts., San Francisco.

G. D. Smith, Asst. Auditor of Freight Accts., San Francisco.

G. E. Bissonnet, Auditor of Pass. Accts., San Francisco.

R. Adams, Auditor of Disbursements, San Francisco.

O. F. Giffin, Auditor of Equipment Accounts, San Francisco.

J. M. Brewer, Freight Claim Agent, San Francisco.

TRAFFIC DEPARTMENT:

J. C. Stubbs, Traffic Director, Chicago.

E. O. McCormick, Asst. Traffic Director, Chicago.

P. C. Stohr, Asst. Traffic Director, Chicago.

[1132]

H. A. Jones, Freight Traffic Manager, San Francisco.

G. W. Luce, General Freight Agent, San Francisco.

T. A. Graham, Assistant General Freight and Passenger Agent, Los Angeles.

S. N. Bostwick, Asst. General Freight Agent, San Francisco.

C. J. Jones, Asst. General Freight Agent, San Francisco.

J. G. Stubbs, Assistant General Freight Agent, San Francisco.

Chas. S. Fee, Passenger Traffic Manager, San Francisco.

Jas. Horsburgh, Jr., Gen. Passenger Agent, San Francisco.

R. A. Donaldson, Asst. Gen. Pass. Agent, San Francisco.

F. E. Batturs, Asst. Gen. Passenger Agent, San Francisco.

H. R. Judah, Asst. Gen. Passenger Agent, San Francisco.

R. B. Miller, Gen. Freight Agent, Lines in Oregon, Portland.

W. E. Coman, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

W. D. Skinner, Asst. Gen. Freight Agent, Lines in Oregon, Portland.

Wm. McMurray, Gen. Passenger Agent, Lines in Oregon, Portland.

J. M. Scott, Asst. General Passenger Agent, Lines in Oregon, Portland.

E. B. Carson, General Baggage Agent, San Francisco.

H. P. Thrall, Mail Traffic Manager, Chicago.

TRANSPORTATION DEPARTMENT:

J. Kruttschnitt, Director of Maint. and Operation, Chicago.

W. B. Scott, Asst. Director of Maint. and Operation, Chicago. [1133]

W. A. Worthington, Asst. to Director of Maint. and Operation, Chicago.

(70)

TRANSPORTATION DEPARTMENT—Continued.

E. E. Calvin, Gen. Manager, Pacific System, San Francisco.

J. P. O'Brien, Gen. Manager, Oregon Lines, Portland.

W. H. Bancroft, Gen. Manager Line East of Reno, Salt Lake City.

W. R. Scott, Asst. Gen. Mgr. Pac. System, San Francisco.

J. H. Young, Gen. Supt. Northern District, San Francisco.

H. V. Platt, Gen. Supt. Southern District, Los Angeles.

M. J. Buckley, Gen. Supt., Oregon Lines, Portland.

Geo. F. Richardson, Supt. of Transportation, San Francisco.

Epes Randolph, Gen. Manager, Sonora Ry., Tucson.

F. S. Rawlins, Superintendent Telegraph, San Francisco.

H. J. Small, Gen. Supt. Motive Power, San Francisco.

C. W. Jungen, Mgr. Atl. Coast S. S. Lines, New York.

ENGINEERING DEPARTMENT:

Wm. Hood, Chief Engineer, San Francisco.

J. Q. Barlow, Asst. Chief Engineer, San Francisco.

G. H. Boschke, Chief Engr., Lines in Oregon, Portland.

John D. Isaacs, Consulting Engineer, Chicago.

LAND DEPARTMENT:

B. A. McAllaster, Land Commissioner, San Francisco.

C. C. Gibbs, Land Commissioner, San Antonio.

SUPPLY DEPARTMENT:

W. V. S. Thorne, Director of Purchases, New York.

Sidney Williams, Asst. Director of Purchases, New York.

I. O. Rhoades, Gen. Purchasing Agent, San Francisco.

H. C. Pearce, General Storekeeper, San Francisco.

[1134]

MISCELLANEOUS:

F. K. Ainsworth, Chief Surgeon and Hospital Manager, San Francisco.

D. Urquhart, Superintendent Commissary, San Francisco.

E. T. Dumble, Consulting Geologist, San Francisco.

G. L. King, Right of Way and Contract Agent, San Francisco.

(71)

SOUTHERN PACIFIC RAILROAD CO.

Incorporated, California, Arizona and New Mexico,
March 10, 1902, for 50 years.

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(74)

First Mortgage Gold Bonds of S. P. R. R. Co., of California, of 1875, Series A to G, inclusive; authorized, \$46,000,000; issued, \$39,285,000; outstanding, \$5,111,000.

- E. Authorized and issued, \$5,000,000;
dated April 1, 1882; due April 1,
1912; outstanding..... \$ 3,147,000
- F. Authorized, \$5,000,000; issued,
\$4,285,000; Dated April 1, 1882;
due April 1, 1912; outstanding. 1,964,000
- G. Authorized, \$6,000,000; never is-
sued.

Interest, 6 per cent., gold, payable April and October. Trustees, D. O. Mills, New York, and Homer S. King, San Francisco.

Southern Pacific Branch Railway First Mortgage Gold Bonds: authorized, \$9,000,000; issued, \$3,578,000; dated April 1, 1887; due April 1, 1937; outstanding, \$3,533,000. Interest, 6 per cent., gold, payable April and October. Trustee, Union Trust Company of San Francisco.

Southern Pacific R. R. of California, First Consolidated [1135] Mortgage Gold Bonds of 1893; authorized, \$58,000,000; issued \$28,766,000; dated September 15, 1893; due November 1, 1937; outstanding \$4,127,500. Interest 5 per cent., gold, payable May and November. Trustee, Central Trust Company of New York.

(75)

Northern Railway First Mortgage Gold Bonds of

1888: authorized, \$21,000,000; issued and outstanding, \$4,751,000; dated October 1, 1888; due October 1, 1938. Interest, 5 per cent., gold, payable April and October. Trustee, Union Trust Company of New York.

Northern California Railway First Mortgage Gold Bonds; authorized, \$1,100,000; issued and outstanding, \$1,074,000; dated November 1, 1899; due November 1, 1929. Interest, 5 per cent., gold, payable June and December. Trustee, California Safe Deposit & Trust Co., of San Francisco.

California Pacific R. R. First Mortgage Gold Bonds; authorized and issued, \$2,250,000; outstanding, \$2,232,000; dated January 1, 1867; due January 1, 1912. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

California Pacific R. R. Second Mortgage Gold Bonds; authorized and issued, \$1,600,000; outstanding, \$1,595,000; dated August 9, 1871; due January 1, 1911. Interest $4\frac{1}{2}$ per cent., gold, payable January and July. Trustees, Jas. O'B. Gunn and Chas. E. Green, both of the City of San Francisco, Cal.

Southern Pacific R. R. (of Arizona) First Mortgage Gold Bonds: authorized and issued, \$10,000,000; outstanding; Series B, \$4,000,000; dated March 1, 1880; due March 1910. Interest 6 per cent., gold, payable January and July. Trustees, I. W. [1136] Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. of New Mexico First Mort-

gage Gold Bonds: authorized, \$5,000,000; issued and outstanding \$4,180,000; dated January 1, 1881; due January 1, 1911. Interest 6 per cent., gold, payable January and July. Trustees, I. W. Hellman and Union Trust Company, both of the City of San Francisco, Cal.

Southern Pacific R. R. First Refunding Bonds: authorized \$160,000,000; issued, \$108,353,000; outstanding, \$108,303,000; dated January 3, 1905; due January 1, 1955. Interest 4 per cent., January and July. Trustee, The Equitable Trust Co. of New York.

DIRECTORS (11), elected April 12, 1910:

F. K. Ainsworth, San Francisco.

E. E. Calvin, San Francisco.

I. W. Hellman, San Francisco.

Wm. F. Herrin, San Francisco.

Wm. Hood, San Francisco.

Wm. Mahl (Mch 16, 1910), New York.

E. O. McCormick (Jan. 12, 1911), San Francisco.

R. S. Lovett, New York.

C. H. Redington, San Francisco.

W. R. Scott, San Francisco.

Jas. K. Wilson, San Francisco. [1137]

(76)

Wm. Hood, Chief Engineer, San Francisco.

Alex. Millar, Transfer Agent, New York.

Joseph Hellen, Transfer Agent, New York.

Otto C. Kahn, Transfer Agent, New York.

W. H. James, Transfer Agent for Bonds, New York.

James Watkins, Transfer Agent for Bonds, New York.

Chas. P. Lincoln, Transfer Agent for Bonds, San Francisco.

R. Troup, Transfer Agent for bonds, New York.

B. A. McAllaster, Land Commissioner, San Francisco.

Alfred S. Donaw, Statut'y Agt. in Arizona, Tucson.

J. A. Mahoney, Statutory Agent in N. Mexico, Deming.

(In black typewriting)

OFFICERS:

R. S. Lovett, Prest., N. Y.

Wm. F. Herrin, V. P., S. F.

E. E. Calvin, 2nd V. P., S. F.

E. O. McCormick, 3rd V. P., S. F.

Wm. Mahl, 4th V. P., N. Y.

C. H. Redington, 5th V. P., S. F.

Wm. Mahl, Comptroller, N. Y.

A. K. Van Deventer, Treas., N. Y. [1138]

C. H. Redington, Asst. Treas., S. F.

G. L. King, Secty., S. F.

Alex. Millar, Asst. Secty., N. Y.

Jos. Hellen, Asst. Secty., N. Y.

C. P. Lincoln, Asst. Secty., S. F.

A. D. McDonald, Auditor, S. F.

Wm. Hood, Chief Engr., S. F.

It is stipulated between the counsel for the respective parties to this cause that the several manuals herein offered in evidence and marked respectively

as Plaintiff's Exhibits "III" to "PPP", inclusive, may, for their proper care and preservation, be withdrawn by counsel for the defendants herein, to be by them returned at any time into court when the same are required for further examination.

Mr. Lewers—That is agreeable to us, with the understanding that all of these manuals will eventually be returned to our possession and that we are to produce them in court only during such time as they may be needed there.

Mr. Mills—You mean before the trial court?

Mr. Lewers: Yes.

Whereupon the further taking of testimony herein was adjourned until Wednesday, July 31, 1912, at 3 o'clock p.m. [1139]

On Wednesday, July 31, 1912, at three o'clock p.m., the further taking of testimony herein was, by agreement and consent of counsel, adjourned until Thursday, August 1st, 1912, at ten o'clock a.m., at the same place; and at said last-mentioned time, Willis N. Mills, Special Assistant United States Attorney General, appeared before the special examiner and the following proceedings were had:

Mr. Mills—I desire to announce, Mr. Examiner, that Mr. Hoehling, counsel for all the defendants except the Equitable Trust Company of New York, was subpoenaed to produce certain papers desired by the Government, at 10 o'clock of this day, and that upon telephonic request from Mr. Lewers, acting for Mr. Hoehling and the defendants, it has been agreed upon my part, without waiving any rights under the

Government subpoena referred to, and because of the alleged voluminous bulk of papers necessary to be examined in order to comply with the subpoena, to go to Mr. Hoehling's office and informally examine the papers, in order to eliminate unnecessary documents; and I therefore suggest that a continuance of the hearing be had until Friday, August 2d, 1912, at ten o'clock a.m., at the same place.

Whereupon, the further taking of testimony herein was adjourned until the time and place named.

On Friday, August 2d, 1912, at ten o'clock a.m., the further taking of testimony herein was resumed, pursuant to the adjournment; Willis N. Mills, Special Assistant United States [1140] Attorney General, appearing on behalf of the plaintiff, and Charles R. Lewers, Esq., and A. A. Hoehling, Jr., Esq., appearing on behalf of the defendants.

Whereupon the following proceedings were had:

Mr. Lewers—Owing to the misunderstanding that has taken place concerning these records and letters, I would like to have it understood that demand was made by the Department of Justice, or some representative—

Mr. Mills—Pardon me for interrupting you. If you go into that question at all, I shall have to call Mr. Ambrose here and swear him.

Mr. Lewers—You are not disputing the fact that Mr. Hoehling notified Mr. Knaebel that these letters were here and the Department could have them, are you?

Mr. Mills—Is this all going into the record?

Mr. Lewers—It certainly is.

Mr. Mills—You can make your objection, and I shall take steps to put into the record what did happen. I don't regard it as at all essential. You can make the statement, if you wish, that you were willing at all times to give up these papers; but I don't want to have testimony going in unless it is under oath.

Mr. Lewers—As an attorney in the case, I claim the right to make statements as an attorney, and upon my oath as an attorney; and I am accustomed to have those taken at their face value, and I am not accustomed to make the other kind. [1141]

Mr. Mills—There is no necessity for you to make those remarks. I have as much respect for you probably, as you are entitled to, as an attorney. I regard this as a side issue. I am willing to take Mr. Hoehling's statement of the matter, but I do not wish to have your unsworn statements go into the record as testimony; and I serve notice on you now that if you persist in making them I shall meet them by producing witnesses to show it is not so.

Mr. Lewers—If you deny the accuracy of it, that is another story.

Mr. Mills—I wont deny anything as long as it is not raised. I am willing to take Mr. Hoehling's statement that he was willing to give up those papers.

Mr. Lewers—I merely asked you whether or not, before taking this testimony, you would not have the courtesy to admit that we had given you every opportunity to examine these papers and examine our

letter-books, page by page, and that we had informed the Department of Justice that these letters could be had, and that it was not necessary to get out a subpoena duces tecum; that we have extended to you favors you could not get under your subpoena duces tecum. That is all I desired to ask you—whether you would agree to have the record show that fact.

Mr. Mills—I will agree to have the record show that that statement was made both by you and Mr. Hoehling. and, I have no reason to contest that, because I regard it as immaterial, but, as I stated to you, I was told an entirely different story by the man who went over to get the papers. I don't want to put in issue the veracity of Mr. Hoehling, as you seem willing to do. I am willing to accept Mr. Hoehling's statement. [1142]

Mr. Lewers—That is all I want.

Mr. Mills—I am simply stating to you that I was told an entirely different story, namely, that the papers would not be given up without the consent of Mr. Evarts.

Mr. Hoehling—That is correct. But the consent was obtained.

Mr. Mills—It seems to me all this statement may go out of the record and the record state simply that upon request Mr. Hoehling was willing to give up the papers and allow us to examine them; that the special agent who went over there misunderstood Mr. Hoehling, or could not get the paper, and thereupon subpoena was issued, and upon issuance of the subpoena Mr. Hoehling exhibited the books to me.

Mr. Lewers—That is not exactly the way it occurred. Perhaps that statement is hardly fair to you, Mr. Mills. The fact, as it occurred, as I understand it, is that after Mr. Ambrose went over there, with some other gentleman whose name I have forgotten, and was informed that it was necessary to refer the matter to our general counsel in New York, Mr. Hoehling called up Mr. Knaebel, of the Department of Justice, and informed him that the papers were there, that they had asked for, and that he, Mr. Hoehling, would gladly turn them over to the Department of Justice for their examination. It is possible that owing to the absence of Mr. Knaebel this later message was not brought to your attention.

Mr. Mills—I didn't talk with Mr. Knaebel; but I was told that Mr. Hoehling very courteously called up Mr. Knaebel and said he had made diligent search and could not find the papers. [1143]

Mr. Hoehling—That is absolutely erroneous.

Mr. Mills—I accept your statement, Mr. Hoehling. You have come in with the papers, and I am willing to make that statement.

Mr. Lewers—My only object was to prevent the record from showing that we had absolutely refused, until compelled by subpoena duces tecum, to produce these papers.

Mr. Mills—I will accept that statement, unequivocally.

Mr. Lewers—That is all I want. At this time, in accordance with the stipulation entered into at the time certain manuals of the Southern Pacific Com-

pany were introduced in evidence, I desire to object to the introduction of the manuals, or, rather, to certain portions of them, as follows: I object to the introduction of all portions of these manuals other than the lists of subsidiary companies and names of officers of the Southern Pacific Company, Southern Pacific Railroad Company, and Kern Trading and Oil Company, on the ground that all of the other matter contained in these manuals, and, specifically, all the other matter con- in the portions of these manuals read into the record, are irrelevant and immaterial to any issue in this case, in that they concern companies, properties, and officers in no way connected with any of the issues in this case, and not parties to this case; and I specifically object to the introduction of those portions of these manuals concerning funded and other indebtedness, or mortgages, trust deeds, and so forth, contained in these manuals, on the ground that the matters contained in these manuals in regard to these subjects, and particularly [1144] contained in the portions of the manuals introduced and read into evidence, do not concern any of the issues in this case and do not refer to or belong to any of the defendants in this case, in that they do not concern, cover or in any way refer to the land in litigation in this case, to-wit, the land in township 30-23. I make the further objection that no foundation whatever has been introduced to show that the mortgage indebtedness of the Southern Pacific Railroad Company referred to in this evidence was in any way connected with this suit, or in any way connected

with any of the defendants in this suit in reference to the land in question, and that the introduction of this testimony is needlessly encumbering the record. For all of the foregoing reasons I also move that this testimony, with the exceptions noted, be stricken from the record.

Mr. Mills—To be clearly understood, I will ask you whether your objection goes to that portion of the manuals introduced to show the control by the Southern Pacific Company, the Kentucky corporation in this suit, of the Southern Pacific Railroad Company, the other defendant, by stock ownership, to the extent of showing the lack of fiscal autonomy on the part of the Southern Pacific Railroad Company.

Mr. Lewers—I don't know that I know what you mean. The objection excepts those portions of the manuals which refer to auxiliary companies, lists of auxiliary companies.

Mr. Hoehling—Of which the Southern Pacific Railroad Company appears to be a part of the list in the manual.

Mr. Lewers—As I understand it, each of the manuals shows that the property of the Southern Pacific Company is operated by the Southern Pacific Railroad Company—that is, [1145] certain property is—under a lease; and that the Southern Pacific Company owns a majority of the stock of the Southern Pacific Railroad Company. Insofar as that part of the exhibits is concerned, I have no objection.

Mr. Mills—I am going to ask you, Mr. Lewers and Mr. Hoehling, whether these letter-press books, which

purport to be copies of letters written by D. A. Chambers, resident attorney, formerly, for the Southern Pacific Railroad Company, contain the letters that were actually written by Mr. Chambers; that is, will you admit those are his signatures?

Mr. Lewers—Yes.

Mr. Hoehling—So far as I know. There were delivered to me as the books that he kept.

Mr. Lewers—I think that there is no doubt about it.

Mr. Hoehling—No doubt at all.

Mr. Mills—May I have the volume containing the letters written in 1903?

Mr. Lewers—That is volume 61. That volume has most of them in. (Letter-press copy-books handed to counsel for plaintiff).

Mr. Mills—I ask you, Mr. Hoehling, whether these letter-press copy-books, numbered 61, 62 and 63, came into your possession as an attorney for the Southern Pacific Railroad Company from the office of the late D. A. Chambers, who was, during his lifetime, the resident attorney in this city of the same company?
[1146]

Mr. Hoehling—They did. Mr. Chambers died, I think, in perhaps August, 1907. I was appointed attorney for the Southern Pacific Company in, perhaps, February or March of 1908. Some weeks after my appointment, these letter-press copy-books, together with others, were brought to my office and delivered to me by Mr. John B. Bloss, who for many

years had been the assistant to Mr. Chambers in that business.

Mr. Mills—And all of the letters which on their face purport to indicate that Mr. Chambers wrote them or signed them, were, in your opinion, written and signed by Mr. Chambers?

Mr. Hoehling—They were.

Mr. Mills—I offer in evidence letter-press copy of letter dated October 12, 1903, addressed to Charles W. Eberlein, acting land agent of the Southern Pacific Railroad Company, signed by Mr. D. A. Chambers, found on page 272, and will read the same into the record of the case.

Mr. Lewers—I desire to offer the general objection to the introduction of this letter, and ask that it be considered as made, without repetition, to all succeeding letters contained in these books, that the testimony is without sufficient foundation at this time, in that, if these letters can have any purpose at all, the purpose is to question the official act of the Commissioner of the General Land Office in releasing from suspension the lands embraced within township 30 23, that is, the lands included in this suit, which official action was evidenced by certain [1147] letters transmitted by the General Land Office and the Commissioner thereof to the local United States land office at Visalia, California, in the months of February and April, 1904. The objection is directed specifically to the fact that no foundation has been laid to show that the Commissioner of the General Land Office, acting in his quasi-judicial capacity in passing

upon this matter, was in any way prevented, or that the instrumentalities of his office were in any way hindered so as to prevent him, from reaching a judicial or quasi-judicial, determination of the matters contained in these letters, and that the testimony now offered, is offered, if for any purpose, apparently to question the official significance of the acts and letters of the Commissioner of the General Land Office.

Mr. Mills—After this somewhat loquacious objection I suppose I ought to illuminate the mind of counsel so far as my purpose goes, by stating that the purpose of the introduction of these letters is to show knowledge on the part of the Southern Pacific Railroad Company of the mineral character of these lands at a time when they were selected as agricultural lands under an agricultural grant.

Mr. Lewers—I am glad to know that that is the purpose of the offer.

The letter last referred to and read in evidence is as follows: [1148]

Visalia Application List 44, primary limits;

“ “ “ 87, indemnity “

October 12, 1903.

Charles W. Eberlein, Esq.,

Acting Land Agent Southern Pacific R. R. Co.,

San Francisco, California.

Dear Sir:

The Southern Pacific Railroad Co. tendered the above lists to the Register & Receiver, and they rejected them because said lands, with a large body of other lands, were suspended from further disposition

by the telegraphic order of the Commissioner of the General Land Office of February 28, 1900, which order was issued because of allegations that the lands contained petroleum.

Mr. Madden took an appeal from the action of the R. & R. as to each of these lists and asked a hearing.

We are continually running up against this order of the Commissioner of the General Land Office in respect to lands within the Southern Pacific grant which have been listed or selected, or which the Company desires to list or select.

Of course nothing can be done here towards getting patents, or the approval of our lists by the R. & R., (for lands within the order), until this order is revoked, and the Commissioner will not revoke it as to any lands until the Special Agent has reported that the lands do not contain petroleum.

Special Agent E. C. Ryan (headquarters at Los Angeles, Cala.), has charge of the examination of these [1149] lands. He was here recently, and his attention was directed to the matter, and he was urged to go over the lands and make his report as rapidly as possibly.

In looking through our pending Visalia lists, I came across the two named in the caption, and on the 7th instant, I addressed a letter to the Commissioner calling his attention to the lands in these lists, and asking that he direct his Special Agent to report on them at the earliest possible date. It may be that you can hasten Mr. Ryan's report. If he reports that

the lands on these lists are non-mineral, (do not contain petroleum), I can then ask to have these two lists returned to the R. & R. for approval.

On the other hand, if he reports that they are petroleum lands, I will then ask that a hearing be ordered in accordance with Mr. Madden's appeals. The hearing, of course, will be an expense to the Railroad Company.

Yours truly,

(Sgd) D. A. CHAMBERS.

Mr. Mills—I next offer in evidence letter-press copy of letter found at page 274 of the letter-press copy-book, dated October 12, 1903, addressed to J. Kruttschnitt, Fourth Vice-President of the Southern Pacific Company, signed by D. A. Chambers, which I will read into the record as follows:

Survey of part of Township 30 S. Range 23 E.,
M. D. M., Visalia Land district, California,
Plat Approved August 1, 1902. [1150]

October 12, 1903.

J. Kruttschnitt, Esq.,

4th Vice President, Southern Pacific Co.,
San Francisco, California.

Dear Sir:

I have received your letter, dated New Orleans the 9th inst., in relation to the above survey, with copy of Mr. Charles W. Everlein's letter to you of the 26th ult., and copy of your telegram to him in reply, dated New Orleans the 9th inst.

I find that the plat of part of the above township,

approved August 1, 1902, embraces Sections 15, 17, 19, 21, 23, 25, 27, 29, 33 and 35.

The Southern Pacific Railroad Co. has received a patent for the NW $\frac{1}{4}$ Sec. 17, and the NW $\frac{1}{4}$ of Sec. 19, T. 30 S., R. 23 E., under plat approved March 19, 1856, but has not received patent for any of the lands covered by the plat approved August 1, 1902, all of which lie within the indemnity limits of the main line grant.

Mr. Eberlein says that no selection of any of these lands had, when he wrote, been made by the Southern Pacific R. R. Co., but that he expected to tender a selection list within a week or ten days from the date of his letter to you, and he suggested that you might ask that special attention be given here to the patenting of this list.

As soon as advised that such list has been transmitted by the R. & R. to the General Land Office, I will, at the earliest possible date urge the issuing of a special patent for the lands selected. [1151]

(I endeavor to get the earliest action practicable by the General Land Office upon all lists of the Southern Pacific Railroad Co. as well as upon the lists of our other railroad companies. I am every day at work upon these lists. But the land Office is pretty slow.)

Please call Mr. Eberlein's attention to the fact that the Commissioner of the General Land Office, by his telegraphic order of February 28, 1900, to the R. & R. at Visalia, suspended from disposal the lands

in T. 30, S., R. 23 E., together with the lands in a great many other townships, upon allegations that the said townships contained petroleum.

Upon inquiry today I find that this withdrawal order as to T. 30 S., R. 23 E., has not been revoked, and will not be until a Special Agent has reported that said lands are not petroleum lands.

Mr. E. C. Ryan (Office at Los Angeles, Cal.), is the Special Agent who has been directed to report upon a large body of lands in the Visalia land district, embraced in the Commissioner's order above referred to. Mr. Ryan has been here lately, and has been urged by officials of the Land Office to report, as rapidly as possible, upon the townships involved.

I presume the Register and Receiver may not approve the lists of the lands in this township which Mr. Eberlein has tendered or will tender, because of the Commissioner's aforesaid order of February 28, 1900. If Mr. Eberlein will write me just what lands he desires to select in T. 30 S., R. 23 E., I can ask the Commissioner of the General Land [1152] Office to direct Special Agent Ryan to examine said lands as quickly as possible and make special report as to their character.

I desire to say further that action is not taken by the General Land Office upon an indemnity list of a railroad company until the expiration of three or four months from the date of the approval of the list by the R. & R. For instance, if the R. & R. approve an indemnity list of the Southern Pacific R. R. Co., Visalia District, October 14, 1903, the land office here

will not take up such list with a view to patenting the lands before the January, 1904, monthly returns of the Visalia Office have reached here (and been posted on the tract books). This is a standing rule, prescribed by the Secretary of the Interior, and the reason of it is, that if a homesteader should settle on a tract October 14, 1903, he has three months in which to file his Homestead Application at Visalia, and the General Land Office hold that they cannot determine that our selections are free from adverse claims until the January returns are received.

I inclose a copy of this letter, in case you may wish to hand it to Mr. Eberlein.

Yours truly,

(Sgd) D. A. CHAMBERS.

Mr. Mills—In the letter just read into the record there is a reference made by Mr. Chambers to a letter from J. Kruttschnitt to Mr. Chambers, dated at New Orleans, October 9, 1903, in relation to the survey discussed in [1153] the letter, also a copy of a letter to Mr. Kruttschnitt mailed to Mr. Chambers written by Charles W. Eberlein and dated September 26; also a copy of a telegram sent by Mr. Kruttschnitt to Mr. Eberlein in reply to that letter, dated New Orleans, October 9, 1903. Have you those letters and telegrams, Mr. Hoehling, among the papers which were turned over to you?

Mr. Hoehling—Upon the receipt of the records, papers and letter-press copy-books from the office of Mr. Chambers under the circumstances that I have already described, I found that they were in very bad

shape, the papers not being assembled with reference to subject-matter or in reference to particular lists, but just a jumble of papers that were deposited on the floor of my back office. For some considerable time thereafter I caused those papers to be carefully assorted and arranged with reference to subjects—lists, matters of that kind—and appropriately filed away. Neither one of the letters that you have just referred to was found by me among the papers so turned over; and I might add that since you have been here and since I have talked with you, I have, personally and through Mr. Ogilby, my assistant, caused careful search to be made to see that if the letters were anywhere in Mr. Chambers' records and I have failed to discover any with the exception of one letter, dated December 10, 1903, from Mr. Eberlein to Mr. Chambers and which I have explained to you I have heretofore turned over to Mr. Lewers.

Mr. Mills—That was mailed to Mr. Lewers, was it?
[1154]

Mr. Hoehling—No. When Mr. Lewers came here Saturday morning of last week, he asked me to let him have the letter-press copy-book or books and any letters pertaining to that which I had among the Chamber files. I turned the books over to him, and that one letter, and Mr. Lewers afterwards advised me he had sent that to the San Francisco office.

Mr. Lewers—We are now engaged in an effort to locate the specific letters you have referred to as having been written to Mr. Kruttschnitt, and also any other letters that are referred to, and the search is

being made in all possible directions that occur to us for these letters, and we will endeavor to locate them if we possibly can.

Mr. Mills—Do I understand the statement that you make includes a reference to all original letters or copies of letters transmitted to Mr. Chambers?

Mr. Lewers—Yes.

Mr. Mills—Wherever found in these letter-press copies?

Mr. Lewers—Yes.

Mr. Mills—Wherever reference is made to them in these letter-press copies?

Mr. Lewers—Yes sir.

Mr. Mills—I offer in evidence letter-press copy of a telegram dated October 19, 1903, from D. A. Chambers to Charles W. Eberlein, found at page 303 of this volume, which I will read into the record as follows:
[1155]

October 19, 1903.

Telegram:

Charles W. Eberlein,

Acting Land Agent Southern Pacific R. R. Co.,
San Francisco, Cal.

Think you should immediately select lands in Township thirty South, Range Twenty-three East and if local officers refuse list, appeal to Commissioner. This ought to be protection against adverse claimants filing or alleging settlement later than our selection. Right of railroad company to indemnity

lands is determined by their status at date of selection.

(Sgd) D. A. CHAMBERS.

Ans. to D.H. 76 Ch 7 G Ny Oct. 18, 1903.

Mr. Mills—I offer in evidence letter-press copy of a letter dated October 24, 1903, addressed to Mr. Charles W. Eberlein, acting land agent of the Southern Pacific Railroad Company, signed by D. A. Chambers, found at page 332 of this volume, which I will read into the record, as follows:

Visalia Application List No. 87, indemnity limits—
Lands in Tp. 32 S., R. 25 E., M. D. M.

Visalia Application List No. 44, primary limits—
Land in Sec. 1, T. 30 S., R. 23 E., M. D. M.

Charles W. Eberlein, Esq. Oct. 24, 1903.

Act. Land Agt. So. Pac. R. R. Co.,
San Francisco, Cal.

Dear Sir:

Referring to my letter of the 12th inst., and your reply of the 17th inst., I would say that I am now in receipt of a [1156] letter from the Assistant Commissioner of the General Land Office, dated the 23d inst., in which he says that an investigation of the lands applied for in the above lists will be made by a Special Agent, and, upon receipt of his report, appropriate action will be taken upon the applications of the Southern Pacific R. R. Co.

In reply to your telegram of the 18th inst., in respect to other lands in T. 30 S., R. 23 E., I wired you on the 19th inst., that I thought you should tender an indemnity selection list for such lands, not-

withstanding that township is now suspended from entry on account of allegations that it contains petroleum, and that if the R. & R. refuse to accept the list you should take an appeal to the Commissioner.

Yours truly,

(Sgd) D. A. CHAMBERS.

Mr. Mills—I offer also in evidence and read into the record a letter-press copy of a cipher telegram, dated November 30, 1903, from D. A. Chambers to Charles W. Eberlein, of which the translation is as follows, found at page 430 of this volume:

November 30, 1903.

Telegram:

Charles W. Eberlein,

Acting Land Agent Southern Pacific R. R. Co.,

San Francisco, California.

Oblong dawdler appeal to bitterful from rejection by Register and Receiver, Visalia, of Indemnity List eighty-nine selecting lands in town thirty south, range twenty-three east [1157] idle recreant advising this course.

(SGD) D. A. CHAMBERS.

DH10301

Translation of cipher telegram Nov. 30, 1903, to C. W. Eberlein.

Your letter 24th. I think you should appeal to Commissioner General Land Office from rejection by R. & R., Visalia, of Indemnity List 89, selecting lands in town 30 South, Range 23 East. See my letter October 24th advising this course.

Mr. Mills—My offer also includes the letter-press copy of a letter written by D. A. Chambers to Charles W. Eberlein, dated December 10, 1903, found at page 451 of this volume, which I will read into the record as follows:

Visalia Application List No. 89.

Tracts in T. 30 S., R. 23 E., M. D. M.

December 10, 1903.

Charles W. Eberlein, Esq.,

Actg. Land Agent, So. Pac. R. R. Co.,

San Francisco, California.

Dear Sir:

Referring to previous correspondence in respect to this application list, and to my telegram to you of the 30th ult., I would say that on the same date, I wrote a letter to the Commissioner of the General Land Office, and requested that he have an investigation made by a Special Agent of his office without delay of the lands named in this application list.

I am now advised by his letter of the 10th inst., that he has directed such examination to be made. I presume the Special Agent is Mr. Ryan, but I am not advised positively about this. [1158]

If you learn that this agent reports to the Commissioner of the General Land Office, please be sure to advise me.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Mills—I also offer in evidence letter-press copy of a letter dated December 16, 1903, addressed to the

Honorable W. F. Herrin, San Francisco, signed by D. A. Chambers, found at page 504 of the volume, which I will read into the record, as follows:

Visalia Main Line Indemnity List 89.

Lands in Tp. 30 S., R. 23 E. M. D. M.

December 16, 1903.

Hon. W. F. Herrin,

San Francisco, Cal.

Dear Sir:

I have your letter of the 9th instant, with copy of an appeal taken on behalf of the Southern Pacific Railroad Company from the rejection by the Register & Receiver of the above list, on the ground that the lands were suspended from disposition by Commissioner's telegram of February 28, 1900.

The Register & Receiver in rejecting said list conformed to the rulings of the Department in like cases.

This blanket suspension of February 28, 1900, on allegations that a large area of land in California contained petroleum, we endeavored to have the late Commissioner Hermann revoke, but the best he would do was to [1159] direct his special agents to examine and report on all lands within railroad limits in Southern California. We have never been able to learn that any report was ever made by the Special Agents.

As to the lands on this list 89, on the 30th ult., I requested the Commissioner to have an investigation of them made immediately by a Special Agent, and on the 10th inst. he advised me that a special agent had been instructed to examine and report on them.

On the same day I advised Mr. Eberlein of said action of the Commissioner.

It did not seem advisable to me that the Company at this time should take steps to get a hearing as to these lands, for if the Special Agent reports favorably, the lands would be released from suspension without expense to the Company, and if, as to any of the lands, his report shall be adverse, it will then be time enough for us to apply for a hearing as to such lands, with submission of affidavits in support of our application.

I will look after this appeal when received at the General Land Office from the Visalia local office.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Mills—I also offer in evidence a letter-press copy of a letter from D. A. Chambers to Charles W. Eberlein, dated December 16, 1903, found at page 506 of this volume, which I will read into the record, as follows: [1160]

Visalia Main Line Indemnity List 89 for
lands in 30 S., 23 E., M. D. M.

Appeal from decision of R. & R. rejecting
said list.

Decmeber 16, 1903.

Charles W. Eberlein, Esq.,

Actg. Land Agt., Southern Pacific R. R. Co.,
San Francisco, Cal.

Dear Sir:

I have received your letter of the 10th inst., in respect to the above application list, and the appeal

taken therefrom in behalf of the Southern Pacific R. R. Co.

I have also received from Mr. Herrin, with his letter of the 9th inst., copy of the said appeal.

I enclose herewith copy of my letter of this date to Mr. Herrin acknowledging receipt of the appeal.

Probably you have by this time received my letter of the 10th inst., in which I advised you that the Commissioner of the General Land Office had on the same day directed examination of the lands on this list to be made by a Special Agent. And I said I supposed this Special Agent is Mr. Ryan, but was not sure.

It makes no difference whether the appeal from a decision of the R. & R. is signed by you as Acting Land Agent of the Southern Pacific R. R. Co. or by M. Herrin or Mr. Singer as Attorney for the Company. That is a matter to be arranged between yourselves.

As to you having an interview with Mr. Ryan, Special Agent, I would say that if you meet him, I think it would be sufficient if you were to inform him that you have [1161] been advised by the Company's attorney in Washington that he has been directed to examine these lands and say that it would be very acceptable to the Company if he could make speedy report.

Of course you will advise me immediately you know Mr. Ryan has made his report.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Mills—I also offer in evidence a letter-press copy of a letter dated January 13, 1904, found at page 577 of this volume, addressed to Charles W. Eberlein, as acting land agent of the Southern Pacific Railroad Company, and signed by D. A. Chambers, which I will read into the record, as follows:

Visalia Main Line Indemnity List No. 89.

January 13, 1904.

Charles W. Eberlein, Esq.,

Acting Land Agent Southern Pacific R. R. Co.,
San Francisco, California.

Dear Sir:

I received yesterday your letter of the 6th inst., in which you say that my action in respect to the lands in the above named list 89 has not been in accordance with the suggestion in your letter of the 10th ultimo.

Let me go back a little before taking up list 89:

I wrote you October 12th, 1903, concerning certain lands in Tps. 32 S., R. 25 E., and 30 S., R. 23 E., embraced [1162] in Visalia Application List 44, primary limits, and 87, indemnity limits, which have not been patented because said lands are embraced in orders of suspension issued by the Commissioner of the General Land Office February 21 and 28, 1900; and I said that October 7th I had requested the Commissioner to direct a Special Agent to examine and report on said lands as soon as possible.

On the 24th of October I advised you that the Assistant Commissioner October 23rd had directed a Special Agent to make an investigation of the said lands.

October 30th you acknowledged receipt of my last-mentioned letter, without raising any objection to the action requested by me and taken by the Assistant Commissioner.

Now as to Visalia Main Line Indemnity List 89, covering lands in T. 30 S., R. 23 E., M. D. M. (also suspended by the Commissioner February 21 and 28, 1900), upon the receipt of your letter of November 24th, I took the same course as I had taken as to the lands in Visalia Lists 44 and 87, namely, on the 30th November I asked the Commissioner to direct a Special Agent to examine those lands in List No. 89, and report upon their character without delay.

On the 10th December I advised you of my letter of the 30th November to the Commissioner and of his reply to me of the 10th December, in which he said that he had directed a Special Agent to examine the lands.

Please bear in mind that these two requests for examination of specified lands by a Special Agent, were made and the action of the Commissioner taken, before I received your letter of December 10th, to which you now call attention. [1163]

Since the receipt of your said letter of the 10th December I have not made, and shall not make, any request for examination by a special agent of any suspended lands within the grant to the R. R. Co., unless you so request.

I have always followed, and always intend to follow, the action our Land Agents in California sug-

gest that I take here, unless, entertaining a different view of the best policy and having explained it to our Agents in California, they agree with me and change their instructions accordingly.

We are anxious to have the lands in list 89, and also those in Lists 44 and 87 patented to the Company. But inasmuch as patents cannot issue until the Commissioner relieves them from suspension, it seems to us that what has been done here will hasten the adjudication of lands as non-mineral and their patenting to the Company. That was my object.

If I had known your views when writing my letters of October 7th and November 30th to the Commissioner, I could have made said letters conform thereto, and asked action upon all suspended lands, without specifications of any. But the Commissioner's letter of December 10th to Special Agent Ryan, which, confidentially, I have been allowed to read, suggests that he now report whether there is any necessity for the continuance of the suspension of any of the lands in three districts; and this is apparently the kind of official action that you desired. The Commissioner says, substantially: [1164]

By letter of October 23, 1903, in the case of Ex-parte Southern Pacific R. R. Co., you were directed to examine the SE/4 Sec. 23, SW/4 Sec. 25, and SW/4 Sec. 27, T. 32 S., R. 25 E., and the SW/4 Sec. 1, T. 30 S., R. 23 E.

The Southern Pacific Railroad Co. has now requested that the following tracts be also examined in order that they may be relieved from suspension, and

made subject to selection by the Company. It is stated that nearly four years have elapsed since the order of suspension, and no mineral entries have been made. These lands are: All of Sec. 15, NE/4 and S/2 Sec. 17, NE/4 and S/2 Sec. 19, all of Sections 21, 23, 25, 27, 29, 33 and 35, T. 30 S., R. 23 E., M. D. M.

You are accordingly directed, when you make examination of the lands first described, to also examine the lands last mentioned and to promptly thereafter report as to whether same should be relieved from suspension.

“This office has no available force from which to assign you assistance at the present time. With this condition of affairs in view, you will make report based upon the examinations heretofore made, your knowledge of the lands remaining to be examined, and familiarity with the country generally, as to whether in your opinion there is any necessity for the continuance of the suspension of the lands in the Visalia, San Francisco and Los Angeles Districts, suspended by this office in 1900 and not reported upon, a list of which you have.”

Mr. Herrin wrote me on the 9th ult., and enclosed a copy of the appeal from the decision of the Register & Receiver rejecting Visalia Indemnity List No. 89, and, on the 16th December, I wrote him acknowledging receipt of the appeal [1165] and, on the same date I wrote you and enclosed a copy of my letter to Mr. Herrin.

I have endeavored to keep you promptly and fully advised as to everything that has been done here in

respect to this Visalia Indemnity List No. 89, as I have concerning all other matters relating to the Southern Pacific Railroad land grant.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Mills—My offer also includes a letter-press copy of a letter dated February 13, 1904, found at page 678 of this volume, addressed to Charles W. Eberlein, acting land agent of the Southern Pacific Railroad Company, and signed by D. A. Chambers, which I will read into the record as follows:

Visalia Indemnity Application List No. 89—

Lands in T. 30 S., R. 23 E.

February 13, 1904.

Charles W. Eberlein, Esq.,

Act. Land Agent, So. Pac. R. R. Co.,

San Francisco, California.

Dear Sir:

Referring to your letter of the 21st ult., I now enclose herewith copy of the Commissioner's letter of the 11th inst., to the Register and Receiver at Visalia relieving from suspension as mineral the lands described therein in Tp. 30 S., R. 23 E., and Tp. 32 S., R 25 E., M. D. M.

Some of these lands were listed in Visalia primary limits List No. 44, and Visalia Indemnity List No. 87, which are the [1166] subjects of two other letters to you of this date, but the bulk of the lands mentioned in the Commissioner's letter, copy of which is enclosed, were attempted to be selected in Visalia Indemnity List No. 89, which, as you know, was re-

jected by the Register and Receiver and an appeal taken to the Commissioner from such rejection.

The Commissioner in his letter of the 11th inst. omitted to name Sec. 29, T. 30 S., R. 23 E., as a section now found to be non-mineral. He will write another letter to the Register and Receiver stating that said Section 29 has been relieved from suspension as mineral.

This Indemnity List No. 89 is in the Railroad Division of The General Land Office, but I have today requested that it be referred to the Mineral Division, and have asked the latter Division to take the same action in respect to List No. 89 as they have taken in respect to Lists Nos. 44 and 87. I am promised that this shall be done, and List No. 89 returned to the Register and Receiver within a day or two with instructions to approve the same.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Lewers—That includes the exhibit with it, does it not? Is that the one that transmits a copy of the Commissioner's letter?

Mr. Mills—Yes. It will speak for itself.

Mr. Lewers—That is, the copy is offered also, is it, as well as the letter? [1167]

Mr. Mills.—No. I offer this letter. It refers to the copy. I have not the copy.

Mr. Lewers—The copy follows it immediately.

Mr. Mills—No; I don't offer the copy. I am going to offer a certified copy of this report.

Mr. Lewers—I shall object to the introduction of a

partial letter, or part of a letter, when the letter itself refers to the copy and the copy accompanies the letter. I ask that the copy also be made a part of the record.

Mr. Mills—I also offer in evidence a letter-press copy of a letter dated March 7, 1904, found at page 771 of this volume, addressed to Charles W. Eberlein, as acting land agent of the Southern Pacific Railroad Company, and signed by D. A. Chambers, which I will read into the record, as follows:

Visalia Indemnity Application List No. 89.

March 7, 1904.

Charles W. Eberlein, Esq.,

Actg. Land Agt. So. Pac. R. R. Co.,

San Francisco, California.

Dear Sir:

I have received your letter of the 29th ult., acknowledging receipt of various letters from me in respect to lands on the above list, which was returned by the Commissioner to the Register and Receiver on the 20th ult. for approval.

I presume you have, before this, obtained the approval of this list by the Register and Receiver. Kindly give me the date of the approval of the Register and Receiver and the date when they returned said list to the Commissioner. I will then be able in due course to request the patenting of the lands to the Company.

Yours truly,

(SGD) D. A. CHAMBERS. [1168]

Mr. Mills—I further offer, from page 774 of this

volume, a letter-press copy of a telegram, dated March 8, 1904, addressed to George A. Stone, land department, Southern Pacific Railroad Company, signed by Charles W. Eberlein. Now, I will ask counsel whether they will admit that that is the signature of Mr. Eberlein.

Mr. Lewers—I believe that is, as near as I know, Mr. Mills. I am familiar with his signature merely from examination of the correspondence; but from that I will state that I am satisfied that that is a copy of his signature, that is, a letter-press copy of his signature.

Mr. Mills—Very well. I will read the telegram last referred to and offered in evidence, as follows:

March 8, 1904.

TELEGRAM:

George A. Stone,

Land Department Southern Pacific R. R.,

Wells Fargo Express Building,

San Francisco, California.

Referring to your letter February 29th to Mr. Chambers regarding Visalia Indemnity List eighty-nine: Do not wait on motion of Register and Receiver at Visalia, but take active steps to have list eighty-nine approved as directed by Commissioner's letter. Notify Mr. Chambers by wire and by letter of date of approval of Register and Receiver and date when they returned the list to the Commissioner. Act promptly.

(SGD) CHARLES W. EBERLEIN.

DH 2083 [1169]

Mr. Mills—My offer also includes a letter-press copy of a telegram, addressed to Charles W. Eberlein, as acting land agent of the Southern Pacific Railroad Company, dated March 9, 1904, found at page 775 of this volume, which I will read into the record, as follows:

March 9, 1904.

TELEGRAM:

Charles W. Eberlein,

Actg. Land Agt. Southern Pacific R. R. Co.,
San Francisco, Cal.

Your telegram 9th. Admitting that lands on Visalia Indemnity List eighty-nine are within six miles of mineral claims, time would be saved by immediate publication, as Commissioner would order publication after his office has examined list. Receiver also should approve that list. Why didn't he?

(SGD) D. A. CHAMBERS.

Ans to DH 326 ch jg ry March 8, 1904.

Mr. Mills—My offer also includes the letter-press copy of a letter dated March 15, 1904, found at page 791 of this volume, addressed to Charles W. Eberlein, acting land agent, and signed D. A. Chambers, which I will read into the record, as follows:

Visalia Main Line Indemnity List No. 89—
Approved by the R. & R. Feb. 26, 1904,
for 6109.17 acres.

March 15, 1904.

Charles W. Eberlein, Esq.,

Actg. Land Agt. So. Pac. R. R. Co., [1170]

San Francisco, California.

Dear Sir:

I have received your letter of the 8th inst., with all the enclosures therein referred to, including a copy of the above list. I will give due attention to the patenting of this list, but cannot make any progress with it until the May, 1904, returns from the Visalia Office have been received and posted on the tract books in the General Land Office.

I will pay here the costs of survey of such of these lands as may be clear listed.

You call my attention to the following errors in selections on said list:

The list reads:

North 77.40 acres of W/2 NE/4 Sec. 21, T. 30 S.,
R. 23 E.

South 2.60 acres of W/2 NE/4 Sec. 21, T. 30 S.,
R. 23 E.

You say that the foregoing should read:

North 77.40 acres of W/2 NW/2 Sec. 21, T. 30 S.,
R. 23 E.

South 2.60 acres of W/2 NW/4 Sec. 21, T. 30 S.,
R. 23 E.

You ask me to have these corrections made on the General Land Office copy of said list No. 89.

As the said list No. 89 is now being advertised, if the Visalia Land Officers follow the course pursued by other land officers in California, they will hold List

89 until after it has been advertised, when they will transmit it to the Commissioner with any protests that may be filed, if there be any. I suggest, therefore, that you have the foregoing corrections made now upon the list in the local land office and see that the correct description of the tracts in the above section 21 is put into the advertisement; otherwise the W/2 NE/4 Section 21 will now be advertised and, subsequently, we shall have to advertise the W/2 NW/4 said Section 21 before we can get a [1171] patent therefor.

Of course, if List No. 89 comes up to the General Land Office with the incorrect descriptions, above noted, I will ask to be allowed to correct the same; but I will not be permitted to do so until the Commissioner has referred the matter to the Register and Receiver and has been advised by them that the W/2 NW/4, Sec. 21 is clear to the Company.

2. In my letters to you of November 11 and 27, 1903, I called attention to various descriptions of selections in Los Angeles Indemnity List No. 96, main line, which the Land Office here objected to.

I find that the same kinds of descriptions have been numerous used in this Indemnity List No. 89, and I do not know how much trouble we shall have here on account of them. The two lines 31 and 32 on page 1 of List 89, selecting the W/2 NE/4 Section 21, above referred to, are in point. Instead of splitting these 80 acres into two pieces, there should have been one selection of the W/2 NE/4 Sec. 21—80 acres, and op-

posite thereto (bracketed) the two tracts aggregating 80.80 acres that are assigned as loss in lieu of which the selection is made.

As I said in my letters of November last, the Land Office insists that railroad selections shall be made entirely according to legal subdivisions.

I do not think you should attempt now to submit a new list 89 to the Register and Receiver making the selections properly, because we have already had a great deal of trouble with this list and it has now been approved by the Register [1172] and Receiver. I will get along with it as best I can when it comes up here.

But it will save considerable in advertising if you get the Register and Receiver to properly describe in the advertisement each selection, for instance: see that thy advertise the W/2 NW/4 Sec. 21, T. 30 S., R. 23 E., and the SE/4 NE/4 Sec. 23, T. 30 S., R. 23 E., etc.

Yours truly,

(SGD) D. A. CHAMBERS.

Cy. CWE., NY.

Mr. Mills—I offer also a letter-press copy of a letter dated April 11, 1904, found on page 981 of this volume, addressed to Charles W. Eberlein, signed by D. A. Chambers.

Mr. Lewers—I again ask that the copies referred to in that letter be made part of the record as part of the letter itself.

Mr. Mills—My offer is limited to the letter itself

without the copies. I will read the letter into the record, as follows:

Lands in the Visalia, San Francisco and Los Angeles Districts relieved from suspension on Account of containing mineral oil by Commissioner's letters of April 5, 1904.

April 11, 1904.

Charles W. Eberlein, Esq.,
Acting Land Agt. So. Pac. R. R. Co.,
San Francisco, Cal. [1173]

Dear Sir:

The Commissioner of the General Land Office, in February, 1900, suspended from entry, selection, etc., a large number of townships in California, because of allegations that they contain mineral oil.

On the 5th inst., he relieved a large number of these townships from suspension on that account. I enclose herewith copies of his letters of the 5th inst., to the Registers and Receivers at Visalia, San Francisco and Los Angeles.

Yours truly,
(SGD) D. A. CHAMBERS.

Mr. Mills—I now offer in evidence a letter-press copy of a letter dated August 5, 1904, found at page 568 of the letter-press volume 62, addressed to Charles W. Eberlein as acting land agent, and signed by D. A. Chambers, which I will read into the record, as follows:

So. Pac. R. R. Visalia Main Line Indemnity List No. 89 for 6109.17 acres.

August 5, 1904.

Charles W. Eberlein, Esq.,
Actg. Land Agt. So. Pac. R. R. Co.,
San Francisco, Cal.

Dear Sir:

I duly received your letter of the 19th ult., requesting that I make certain corrections in assignments of lost lands for lands selected in the above list.

I wrote to the Commissioner of the General Land Office on the 25th ult., requesting permission to make such corrections, [1174] and enclosed to you a copy of my said letter.

This morning I am in receipt of a letter from the Commissioner, dated the 4th inst., in which he acknowledges receipt of my letter of the 25th ult., and says—

“In reply, I have to state that by office letter of even date, said list was sent to the local land office with instructions to return the same to the company in order that a new list may be filed properly describing the lands selected by legal sub-divisions and the errors referred to by you can be corrected.”

I immediately went over to the Land Office, hoping that this list had not actually been returned to the Register and Receiver, but found that it had been.

I enclose a copy of the Commissioner's letter of the 4th inst. to the Register and Receiver returning said list.

I told the Land Office that this list had been advertised and report had been duly made by the Register and Receiver that no protest or contest had been filed

during the period of publication, and that, therefore, I thought they should recall the list and let this one list go through as it is in the same condition as a great many Southern Pacific R. R. lists that have been accepted by the office here; but they seem to be a little stiff, and said that my attention had been called several times to mis-descriptions of selected tracts, and that they were not going to accept any more lists where such mistakes occurred; but they said that the lands having been advertised, they would not have to be re-advertised.

All they want is that a new list be presented, selecting tracts by their legal subdivisions, and, at the same time, you can make the corrections in the designations of losses as mentioned in your letter to me of the 19th ult.

You will remember that I wrote you upon the general subject [1175] of making selections by legal subdivisions November 27, 1903, I believe this list 89 had then been written, although it was not approved by the Register and Receiver until February 26, 1904.

Please advise me when the new list has been approved by the Register and Receiver and forwarded by them to the Commissioner of the General Land Office.

Yours truly,

(S) D. A. Chambers.

Mr. Mills—I offer, further, a letter-press copy of a telegram, addressed to Charles W. Eberlein by D. A. Chambers, dated August 18, 1904, found at page 593

of this volume, which I will read into the record, as follows:

August 18, 1914.

Telegram:

Charles W. Eberlein,

Actg. Land Agt. Southern Pacific R. R. Co.,
San Francisco, California.

Yours thirteenth. Give list old number.

D. A. Chambers.

D.H. 11128

Mr. Mills—I offer, further, a letter-press copy of a letter dated August 18, 1904, found at page 594 of this volume, addressed to Charles W. Eberlein, acting land agent, signed by D. A. Chambers, which I will read into the record, as follows: [1176]

Visalia Main Line Indemnity List No. 89.

August 18, 1904.

Charles W. Eberlein, Esq.,

Actg. Land Agt. Southern Pacific R. R. Co.,
San Francisco, California.

Dear Sir:

I have your letter of the 13th instant in the above matter.

I have wired you to-day as follows:

“Yours thirteenth. Give list old number.”

There is no need to raise in the Visalia Office the question as to whether the lands in said list had been advertised or not.

Have the local officers forward the list to the Gen-

eral Land Office and advise me when it is forwarded and I will look after it here.

Yours truly,

(S) D. A. CHAMBERS.

B.

Mr. Mills—I further offer a letter-press copy of a letter dated September 21, 1904, found at page 702 of this volume, addressed to Charles W. Eberlein and signed D. A. Chambers, which I will read into the record, as follows:

Re-arranged Visalia Indemnity List No. 89.

September 21, 1904.

Charles W. Eberlein, Esq.,

Actg. Land Agt. So. Pac. R. R. Co.,

San Francisco, California.

[1177]

Dear Sir:

I have received your letter of the 16th inst., and also copy of the above re-arranged list for 6109.17 acres, which re-arranged list was approved by the Register and Receiver on the 12th inst.

I note that the Register and Receiver transmitted this original re-arranged list to the Commissioner on the 14th inst. I will look it up, and as soon as it has reached the proper Division, will apply for the patenting of the land on said re-arranged list.

Yours truly,

D. A. CHAMBERS.

Mr. Mills—I further offer letter-press copy of a letter dated December 16, 1904, found at page 124 of volume 63, addressed to Charles W. Eberlein as act-

ing land agent, signed by D. A. Chambers, which I will read into the record, as follows:

Ack. Dec. 21/04

Patent to So. Pac. R. R. Co.

December 16, 1904.

Charles W. Eberlein, Esq.,

Actg. Land Agt. So. Pac. R. R. Co.,

San Francisco, Cal.

Dear Sir:

I have mailed to you to-day under separate cover and frank of the General Land Office Patent No. 135, issued to the Southern Pacific R. R. Co., December 12, 1904, for 6109.17 acres, within the indemnity limits of its main line grant, which were selected in Visalia Indemnity List No. 89. [1178]

Please acknowledge receipt of this patent.

Yours truly,

(S) D. A. Chambers.

Mr. Mills—I think that completes all that we will offer from these letter-press books. I now offer in evidence a certified copy, exemplified under the seal of the General Land Office, of a telegram, dated February 28, 1900, addressed to the register and receiver, Visalia, California, signed Binger Hermann, Commissioner. Have you any objection to that, gentlemen?

Mr. Lewers—Before taking that up, I would suggest that while we are on the matter of the Chambers letters I put in the balance of the matter contained in these letter-books, which I desire, as cross-examination, to go in.

Mr. Mills—I do not concede your right to offer any papers or letters or proof at this state of the case.

Mr. Lewers—I propose to do it; so I will proceed.

Mr. Mills—It is a question for the examiner to decide.

Mr. Lewers—I offer in connection with the letters that Mr. Hoehling has produced here, originally coming from the possession of Mr. D. A. Chambers, attorney for the Southern Pacific Railroad Company, in order to complete the correspondence appearing in these letter-books on the part of Mr. Chambers, the following letters that were not offered by the Government; and I offer this in the nature of cross-examination for the purpose of making the entire matter complete as far as possible.

Mr. Mills—You had better make a ruling on that, Mr. Examiner. [1179]

Mr. Lewers—He has no power to.

Mr. Mills—He has power to make a ruling on the question of whether he will take this or not.

The Special Examiner—I will receive the evidence as in the nature of cross-examination.

Mr. Mills—My only objection is the irrelevancy of the papers, they not being connected with the case; and, further, because of incurring cost as being part of the Government's case; and, further, as being evidence offered entirely outside of the proper order of proof. It might be put in as part of the defendants' case.

Mr. Lewers—I offer first, in connection with the

letter of February 13, 1904, addressed to Charles W. Eberlein, appearing at page 678 of volume 61 of the Chambers letter-press copy-books, the copy of a letter signed by J. H. Fimple.

Mr. Mills—Take the statement, before that is done, that the copy referred to by Mr. Lewers I have here in my hands and am about to introduce it as a certified copy under the seal of the General Land Office.

Mr. Lewers: If you will agree that accompanying the letter written by Mr. Chambers to Mr. Eberlein on February 13, 1904, and appearing at page 678, there was a copy of letter of J. H. Fimple, Assistant Commissioner, addressed to the register and receiver of the Visalia Land office, dated February 11, 1904, I shall be content.

Mr. Mills—Yes. I have those. I am going to introduce those. I have them on my list.

Mr. Lewers—Will you agree that accompanying this letter there was a copy of that? [1180]

Mr. Mills—I will agree that if the letter states there was a copy, a copy was probably sent.

Mr. Lewers—The copy is copied in here.

Mr. Mills—Yes; I will agree it was probably sent, if it so states. I don't know the physical fact.

Mr. Lewers—Will you agree that in this book there appears a copy purporting to have accompanied it?

Mr. Mills—Yes.

Mr. Lewers—Then I will withdraw the offer of that letter, under the stipulation. I now offer a let-

ter, dated February 13, 1904, addressed to Charles W. Eberlein and signed D. A. Chambers, a letter-press copy of which appears at page 682 of volume 61 of the Chambers letter-press book, together with the copy of a letter signed by J. H. Fimple, addressed to the register and receiver of the Visalia land office, dated February 11, 1904, beginning at page 683, which I will read into the record, as follows:

Mr. Mills—I will admit that probably was sent.

Mr. Lewers—Well, you will admit that there appears in the Chambers letter-press book, in connection with the letter that I have referred to, a copy of what purports to be the Commissioner's letter of February 11, 1904, in quasi-contest 1998?

Mr. Mills—Yes.

Mr. Lewers—As it appears that the Government does not have a certified copy of this letter, I will read it into the record as follows:

Mr. Mills—We make the further objection to it that it is not certified in any way and merely appears to be a [1181] copy of a Commissioner's letter.

Mr. Lewers—I will read the letter last referred to and offered in evidence, into the record, as follows:

Visalia Indemnity List No. 87 for 480 acres,
Quasi Mineral Contest 1998.

February 13, 1904.

Charles W. Eberlein, Esq.,
Actg. Land Agt. So. Pac. R. R. Co.,
San Francisco, Cal.

Dear Sir:

Referring to my letter to you of October 12, 1903,

I now enclose herewith copy of the Commissioner's letter of the 11th inst. to the Register & Receiver, advising them that the lands in the above list have been relieved from suspension as containing petroleum, and, therefore, returning to them the Company's above list for approval.

Please see that the Register & Receiver promptly approve this list and return it to the Commissioner, advising me when they do so.

Yours truly,

(SGD) D. A. CHAMBERS.

Mr. Lewers—I also offer a letter appearing at page 685 of volume 61 of the Chambers letter-press book addressed to Charles W. Eberlein and signed D. A. Chambers, dated February 13, 1904, together with the accompanying copy of letter addressed to the register and receiver, Visalia land office, and signed J. H. Fimple, dated February 11, 1904, appearing at page 686 of the letter-press book, which I will read into the record, as follows: [1182]

Visalia Primary Limits List No. 44
Quasi Mineral Contest No. 1997.

February 13, 1904.

Charles W. Eberlein, Esq.,
Acting Land Agt., So. Pac. R. R. Co.,
San Francisco, Cal.

Dear Sir:—

I enclose herewith copy of the Commissioner's letter "N" of the 11th inst., to the Register and Receiver at Visalia, advising them that Tp. 30 S., R. 23

E., M. D. M., having been relieved from the suspension ordered February 28, 1900, the Register & Receiver may now approve the above list for the SW/ 4 Sec. 1, T. 30 S., R. 23 E., 160 acres (being the entire list), and returning said list.

Will you please see that the Register and Receiver promptly approve this list, and return it to the Commissioner, advising me when they do so?

I wrote you about this list October 12th last.

Yours truly,

(SGD) D. A. CHAMBERS.

N

WOC

ECF

HGP

Department of the Interior.

General Land Office.

Washington, D. C.

February 11, 1904.

Southern Pacific R. R. Co., ex parte)

Quasi Contest 1997)

Register and Receiver,

Visalia, California.

Sirs: [1183]

October 23, 1900, the Southern Pacific R. R. Co. presented to your office for filing selection List No. 44, granted limits, for the Sw/4 Sec. 1, Tp. 30 S., R. 23 E., M. D. M., which selection was rejected by your office on the grounds that the lands applied for was situated in a township suspended by this office February 28, 1900.

December 7, 1900, the R. R. Co., filed an appeal from your said decision.

The said SW/4 Sec. 1 has by letter of even date been relieved from suspension and while your action in rejecting the list appears to have been correct in view of the then existing suspension there would appear now no objection to the allowances of said selection, which is herewith returned for appropriate action.

Quasi Contest No. 1997 is declared closed.

Very respectfully,

(SGD) J. H. FIMPLE,

Assistant Commissioner.

Mr. Lewers—I offer in evidence, also, a letter appearing at page 769 of volume 61 of the Chambers letter-press book, dated March 7, 1904, and addressed to Charles W. Eberlein, which appears to be unsigned.

Mr. Mills—I make the formal objection that it does not purport to emanate from any responsible source, not being signed, and no foundation laid to show who framed the letter.

Mr. Lewers—The letter last referred to and offered in evidence I read into the record, as follows:
[1184]

Visalia Primary Limits List No. 44.

March 7, 1904.

Charles W. Eberlein, Esq.,

Acting Land Agt. So. Pac. R. R. Co.,

San Francisco, Cal.

Dear Sir:

I have received your letter of the 29th ult. in reference to the above list.

Will you kindly advise me under what date the Register and Receiver approved said list and returned it to the Commissioner of the General Land Office. I desire this information in order that I may ask to have the land patented to the Company.

Yours truly,

Mr. Lewers—I also offer in evidence a letter appearing at page 770 of volume 61 of the Chambers letter-press book, dated March 7, 1904, addressed to Charles W. Eberlein and signed D. A. Chambers, and will read the same into the record as follows:

Visalia Indemnity List No. 87.

March 7, 1904.

Charles W. Eberlein, Esq.,
Actg. Land Agt. So. Pac. R. R. Co.,
San Francisco, Cal.

Dear Sir:

I have received your letter of the 29th ult. in reference to the above list.

Will you kindly advise me under what date the Register and [1185] Receiver approved said list and returned it to the Commissioner of the General Land Office? I desire this information in order that I may ask to have the land patented to the Company.

Yours truly,

(Sgd) D. A. CHAMBERS.

Mr. Lewers—In connection with the letter appearing at page 981 of volume 61 of the Chambers letter-press book, dated April 11, 1904, addressed to Charles W. Eberlein and signed by D. A. Chambers, which

letter was introduced in evidence by the complainant, I now offer the copy appearing at page 982, of the letter, dated April 5, 1904, and signed by J. T. Macey as acting Land Commissioner, which letter is referred to in the letter appearing at page 981 offered by the complainant.

Mr. Mills—I have a certified copy of that letter and am going to offer it.

Mr. Lewers—Then, if you will agree that the certified copy of the original of this will be introduced in evidence, I will not read it into the record.

Mr. Mills—Certainly I am going to offer it.

Mr. Lewers—Is that the letter numbered 56802, 1904-N?

Mr. Mills—Yes; it is.

Mr. Lewers—I also offer, in connection with the letters introduced by the Government, a letter appearing at page 113 of volume 61 of the Chambers letter-press books, dated August 19, 1903, addressed to Jerome Madden, and signed by D. A. Chambers, together with the accompanying letter referred to in this letter, dated August 18, 1903, being file number 136739-1903-N, addressed to the register and receiver at Los [1186] Angeles, California, and signed by W. A. Richards, Commissioner, with reference to which and in connection with this offer I ask now that the Complainant produce either the original office copy of that letter retained in the General Land Office or a certified copy of the same.

Mr. Mills—Does this refer to any of the lands in the suit?

Mr. Lewers—The purpose of this offer is in connection with the other letters concerning examinations made of land by Government officials.

Mr. Mills—Well, does it refer to any of the land in this suit at all?

Mr. Lewers—I don't believe it does, specifically; in fact, I am sure it does not.

Mr. Mills—We object to the introduction of this fugitive copy of a supposed letter, because it relates to lands not involved in the suit at all, but to lands which are by actual measurement 80 miles south of the lands in controversy and about 50 miles to the west, and has no bearing whatever, in the opinion of counsel for the Government, upon this case. It is further objected to on the ground that it is apparently a letter-press copy of a copy of a copy of some letter purporting to have been sent to the Los Angeles land district from the General Land Office.

Mr. Lewers—The letters just referred to and offered in evidence I will read into the record, as follows: [1187]

Land in Tps. 1 S., R. 18, 19 and 20 W.,
S.B.M.

Los Angeles Application Indemnity
List No.

101. Branch Line.

August 19, 1903.

Jerome Madden, Esq.,
Southern Pacific R. R. Co.,
San Francisco, California.

Dear Sir:

Referring to your letter of the 5th inst., and my letters of the 10th and 13th inst., I now enclose herewith copy of the Commissioner's letter of the 18th inst., to the R. & R. at Los Angeles, revoking order of suspension of August 11, 1900, for Tps. 1 S., Ranges 16, 17, 18, 19 and 20 W., S.B.M.

This letter follows soon after the Commissioner's letter to me of the 12th inst., in which he indicated that investigation of these lands was still in progress.

You can now resubmit your Application List No. 101, if you deem proper.

Yours truly,

(Sgd) D. A. Chambers.

136739-1903-N

SMV

H.G.P.

EC.F

Department of the Interior,

General Land Office,

Washington, D. C.

Aug. 18, 1903.

Register and Receiver,

Los Angeles, Calif.

Sirs:

By office letter of August 11, 1900, the land in townships [1188] 1 S., of ranges 16, 17, 18, 19 and 20 W., S.B.M., were suspended from disposition under the agricultural land laws upon allegation that same was valuable for its deposits of mineral (oil). February 13, 1902, you transmitted to this office in connection

with the record in case of the application of Jose Serrano to enter under the homestead laws a portion of Sec. 9. T. 1S., R. 20 W., a statement by Mr. H. W. Duncan to the effect that the suspension of said lands has resulted in hardships to settlers and to those desiring to settle upon the public domain and has served no good purposes and that notwithstanding the fact that considerable prospecting has been done no oil whatever has been discovered. Said record is also accompanied by a petition signed by Tom F. Swinney and four other persons who state that they are settlers in T, 1S., R. 20W. and requesting that the order of suspension be revoked for the reason that the lands withdrawn are non-mineral in character and have no value except for farming and grazing purposes.

Mr. A. W. Marsh of Los Angeles, has filed in this office a number of statements to the effect that the lands in question are of no value except for their deposits of mineral and that if the order or suspension is allowed to remain the mineral prospectors will be enabled to enlist capital to assist in the development of the deposits of mineral therein contained, but if the order of suspension is revoked it will be impossible to obtain money to complete the work. The statement is accompanied by several affidavits from persons who state that they are familiar with the lands in question and that in their opinion the whole district is essentially mineral except a few tillable spots now occupied by homesteaders. [1189]

Acting under instructions received from this office, a special agent visited the land in question dur-

ing the month of July, examined same and interrogated a number of persons resident in the vicinity obtaining their affidavits as to the character of the land and other facts pertinent to the investigation.

The Special Agent now reports that careful inquiry of persons resident in the vicinity failed to elicit anything which would show that the lands have any value for oil or minerals of any kind. One well was bored in T. 1S R. 20 W., some time ago but instead of oil water was found and the well was abandoned. He also found in Sec. 27, T 1S., R. 17 W., upon the homestead claim of John Henry an incline of about 100 feet and a shaft fifteen feet in depth in none of which was any discovery of oil or mineral made. He further reports that he did not find, in any portion of the townships hereinbefore described any oil seepage, oil springs, surface or other indications of oil or mineral which would warrant the lands being classed as mineral in character. The only indication of oil he discovered was a slight coating in some small wells or seams of hard rock on the homestead claim of John Henry. But the prospecting in which Mr. Henry is engaged has to to this time failed to result in the discovery or development of oil or minerals of any kind. The said report is accompanied by the affidavits of a number of persons resident near the lands who state that in their opinion no discovery of mineral sufficient to warrant the continuance of the order of suspension have been made upon the lands in question; that while the land is rough and broken there are numerous fertile and

tillable valleys while [1190] the mountain sides will afford grazing for cattle thus making the land more valuable for agricultural and grazing purposes than for mineral.

The Special Agent also forwards an affidavit made by Mr. A. W. Marsh which states in a general way that he has examined the lands in question and found oil seepages deposits of shale, etc. which indicate that the township is underlaid by deposits of oil.

Upon careful consideration of the whole matter, the conclusion is reached that the public interest will be best subserved by a removal of the order of suspension from said land. The said order of suspension, made August 11, 1900, was intended to be temporary only, giving the prospectors time to explore and develop the district and it would appear that ample time has elapsed within which to have demonstrated the existence of mineral therein, if any does exist. It would appear, however, from the statement of the special agent, that all attempts to bore for oil have resulted in failures and that no indication of the existence of valuable deposits of mineral have been found therein. The said order of suspension of Aug. 11, 1900, is accordingly hereby revoked. Make the proper notations upon your records.

Very respectfully,

(Sgd) W. A. Richards,

Commissioner.

Mr. Lewers—I also offer a letter appearing at page 226 of volume 61 of the Chambers letter-press book, dated September 22, 1903, addressed to Charles W.

Eberlein and [1191] signed by D. A. Chambers; and, together with this, I offer and read into the record—

Mr. Mills—I want to object to your reading anything into the record until the matter is submitted to me to see if I have any objection.

Mr. Lewers—Your objection may be considered as being made before the reading.

Mr. Mills—I don't know that I want to make any objection.

Mr. Lewers—Together with this I offer and read into the record a copy of a letter—

Mr. Mills—I object to counsel reading anything into the record until it is submitted to counsel for the Government for the purpose of enabling him to make any objections which we may want to make.

Mr. Lewers—copy of letter dated September 22, 1903, being file Number 148773-43, addressed to the register and receiver, Visalia, California, and signed by W. A. Richards, Commissioner, and now handed to counsel for the Government; and in connection with that offer I ask for the production of the original copy of that letter retained by the Commssioner of the General Land Office, or a certified copy thereof.

Mr. Mills—The Government objects to the introduction of this alleged letter-press copy of a copy of a copy of a letter relating to lands in a township 12 miles distant from the lands in controversy, as having no bearing whatever upon the issues in this case; and, further, moves that all of the letters heretofore introduced at this hearing by counsel for the defen-

dants be stricken from the record, as being introduced out of order and without any foundation whatever for disturbing the [1192] order of proof.

Mr. Lewers—In reply to the last suggestion, I desire the record to show that, in the normal course of events, on cross-examination we would be authorized to introduce all correspondence referring to the matters introduced on the direct examination, and that the fact that counsel for the Government has very courteously extended to Mr. Hoehling, an attorney in this case, the privilege of having his statement accepted, cannot have the effect of denying the defendants in this case the ordinary rights and incidents of a cross-examination. The letters last referred to and offered in evidence I will read into the record, as follows:

Visalia Indemnity List No. 48;
Bruns and Clarke v. S. P. R. R. Co.

Sept. 22, 1903.

Charles W. Eberlein, Esq.,
Actg. Land Agt. So. Pac. R. R. Co.,
San Francisco, California.

Dear Sir:

The Southern Pacific Railroad Co. selected in above list all of fractional section 1 and the NE/4 of Sec. 11 T. 30 S., R. 21 E., M. D. M.

In Patent No. 31, dated January 25, 1896, the above lands were included.

By township plat, approved April 27, 1869, and resurveyed and plat approved November 18, 1893,

Section one was given Lot No. 37—641.40 acres, and the NE.4 Sec. 11 given lot No. 41, 160 acres. By this plat Lots 1 and 2 of SE/4 SE2 SE/4, Lots 3 and 4 of SW/4 and S/2 SW.4, 206.47 acres were found to be in Section 1, and the larger portion of [1193] Sec. 11 was thrown in to Sec. 2.

Carl A. Bruns applied to select the tracts in Sec. 1 outside of Lot 41 under the Forest Lieu Act.

The Secretary of the interior, in his decision of March 26, 1902, (31 L.D., 272) rejected Brun's application, and held that the Company's patent (No. 31) embraced the lands Bruns applied to select, and that the Company would be entitled to a patent for Lot 41 if there was no objection thereto.

By the plat approved in 1893, there was added to the NE $\frac{1}{4}$ Sec. 11, Lots 1, 4 and 9, containing 47.66 acres. One C. W. Clarke applied to select said lots in Sec. 11 under the Forest Lieu Act. The Secretary, however, January 23, 1903, affirmed the rejection of Clark's application and held that said lots were patented to the Company in said Patent No. 31.

By plat, approved April 13, 1903, the portion of lots 41 in Section 11 is shown to be 52.70 acres, and is designated as lot 10.

When I applied for the patenting of lots 37 and 10, it developed that they were within a suspension on an allegation that the land contained oil. I applied to the Commissioner to revoke the suspension as to these lots.

Whereupon, he instructed Special Agent Ryan to investigate and report as to whether the same con-

tained oil or other mineral. This Special Agent on August 25, 1903, reported that the tracts were not valuable for oil or other mineral.

I now enclose a copy of the Commissioner's letter to [1194] the Register & Receiver of this date, relieving said lots 37 in Sec. 1 and 10 in Sec. 11 from suspension. I have today requested the Commissioner to issue a special patent to the Company for said lots.

Referring to your letter of the 10th inst., acknowledging Patents 84 and 122, saying that all efforts looking toward the prompt issue of patents will be greatly appreciated, I beg to say that I am doing all I can to expedite the issue of patents to the Company.

Yours truly,

(Sgd) D. A. CHAMBERS.

"P"

Department of the Interior,
General Land Office,

148773-43

J.D.Y. Washington, D. C., September 22, 1903.

Southern Pacific R. R. Co.)

Indemnity List No. 48)

Register and Receiver,

Visalia, California.

Sirs:

My telegram "P" of February 26, 1900, Lot 37, Sec. 1 and Lot 41, Sec. 11 T. 30 S., R. 21 E., M. D. M. with other lands, were suspended from disposition on allegations that same contain deposits of oil. Said Lots are within the indemnity limits of the S. P. R. R. Co.'s grant, and they are not embraced in mineral claims of record in this office.

By letter "P" of April 14, 1903, Special Agent E. C. Ryan, Los Angeles, California, was directed to investigate the character and condition of lands included in said lots and thereafter promptly submit a report. [1195]

I have now received Special Agent Ryan's report of August 25, 1903, inclosing a copy of an affidavit executed August 20, 1903, by William A. Maddox, in which Maddox alleges that he has resided in the vicinity of the land in question for the past eight years and is well acquainted with the land embraced in Lot 37, Sec. 1, and Lot 41 Sec. 11, T. 30 S., R. 21 E., M. D. M., having frequently been over the same; that no discovery of oil or mineral of any kind has ever been made on any portion of said land to his knowledge; that some time ago two wells were bored for oil on said lot 41, but no oil was developed and the wells were abandoned; that no development work for the production of oil or other mineral is now being prosecuted on any portion of said land, and in his opinion it is chiefly valuable for grazing purposes.

The Special Agent states that he visited the above described land August 19 and 20, 1903, and found them to be hilly and apparently valueless except for grazing purposes and further corroborates the affidavit of Maddox that there had been no discovery of oil or other mineral on said lots.

The original plats of survey shows that Lot 41 covered land in Secs. 2 and 11, but by diagram made by the Surveyor General April 13, 1903, said lot was

subdivided, and that portion thereof in Sec. 11 is now designated as Lot 10 containing 52-70 acres.

Lot 37, Sec. 1, and Lot 10, Sec. 11, T. 30 S., R. 21 E., M. D. M. are hereby relieved from suspension and you will so note on your records.

Very respectfully,

(Sgd) W. A. Richards, Commissioner. [1196]

Mr. Lewers—And, following the same right of cross-examination, and inasmuch as all the papers and matters in Mr. Hoehling's possession bearing upon this matter—the matter of the lands in controversy in this case—have been demanded, I now offer in evidence the docket entry appearing at page 253 of volume 2 of records from Chambers' office, so far as the same refers to record No. 89 only. And, in this connection, I will ask you, Mr. Hoehling, whether or not this book to which I have been referring was one of the records which was received by you from Mr. Chambers' office.

Mr. Hoehling: It was one of the record books so received.

Mr. Mills—I have no objection to it.

Mr. Lewers—Merely for the purpose of completing the history of the matter. I will therefore read into the record the portion of the docket referred to and offered, as follows:

“Southern Pacific Railroad. Visalia indemnity list No. 89.”

On the margin, at the left, marked “Closed. Approved by R. and R., Feby. 26, 1904. Apr. 30, 1904, Ad. of this list just begun—See C. W. E.'s letter of

Apr. 30, 1904. Pat. asked Sept. 23—04. Surveys not paid in Cala.—survey costs paid \$405.06.

6109.17 acres (in Tp. 30 A. R. 23 E, M.D.M.)

“This list rearranged by order of Com’r to R. & R., dated Aug. 4, 1904. Rearranged list (for exactly same land) approved by R. and R. Sept. 12, 1904. 6,109.17 acres in pat. 135 of Dec. 12, 1904. Sur. cost \$405.06. V. 19 p. 596.”

Mr. Lewers—Now, there are certain letters written by Mr. Chambers to the Commissioner which you have called for and which I understand you have copies of ready to introduce.

Mr. Mills—From Mr. Chambers?

Mr. Lewers—Yes.

Mr. Mills—Yes. That is, I have all I could find.
[1197]

Mr. Lewers—I believe you found all that appear in this book?

Mr. Mills—I think so. I don’t know of any other relating to this case. I now renew my offer to introduce a certified copy exemplified from the records of the General Land Office and under the seal of that office, of a telegram dated February 28, 1900, addressed to the register and receiver at Visalia, California, signed Binger Hermann, Commissioner. I ask that the certified copy offered be marked plaintiff’s exhibit “QQQ”, and I now read it into the record as follows:

PLAINTIFF'S EXHIBIT Q Q Q — L L.

4-207 r

B. DEPARTMENT OF THE INTERIOR
 GENERAL LAND OFFICE
 WASHINGTON

March 5, 1912.

I hereby certify that the annexed copy of telegram, dated February 28, 1900, is a true and literal exemplification from the records in this office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

H. W. SANFORD

Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE).

[1198]

Copy.

“P”

1900-28151

W.E.V. DEPARTMENT OF THE INTERIOR

General Land Office,

Washington, D. C., February 28, 1900.

Address only the

Commissioner of the General Land Office.

TELEGRAM.

Register and Receiver,

Visalia, California.

Suspend from disposition until further orders townships thirteen ranges ten and eleven, fourteen ranges eleven and twelve, fifteen ranges eleven and

twelve, sixteen ranges twelve, thirteen and fourteen, seventeen ranges thirteen and fourteen, eighteen ranges thirteen, fourteen and fifteen, nineteen ranges fourteen, fifteen and sixteen, twenty ranges fourteen and fifteen, twenty-one ranges fifteen and sixteen, twenty-two ranges fifteen, sixteen, seventeen and eighteen, twenty-three ranges sixteen, seventeen and eighteen, twenty-four ranges seventeen, eighteen and nineteen, twenty-five and twenty-six range nineteen, twenty-eight and twenty-nine range twenty, thirty range twenty-three, twenty-five and twenty-six ranges twenty-six, twenty-seven and twenty-eight, twenty-seven ranges twenty-seven, twenty-eight and twenty-nine South and East.

BINGER HERMANN,
Commissioner.

O.G.

Mr. Mills—I now offer in evidence a certified copy of a report or letter, dated July 13, 1900, Bakersfield, Cali- [1199] fornia, to the Commissioner of the General Land Office, signed by J. Cummings, special agent, G. L. O., and ask that the same be marked plaintiff's exhibit "RRR", which I will read into the record, but offer it to Counsel for defendants for examination before reading.

Mr. Lewers—We object to the introduction of the document offered, not on the ground that it is a copy rather than the original, but on the ground that it is purely a hearsay statement, made on an ex parte investigation, which from the face of it appears to have been directed to lands not involved in this contro-

versy and very remote therefrom; on the further ground that no opportunity has been given to the defendants in this case to cross-examine the person making the report, that it does not concern the examination or any examination made of the land in the suit for the purpose of determining whether a patent should issue for the same, but concerns an examination made long prior thereto when no patent application was pending and when in no way could the defendants in this case, and particularly the Southern Pacific Railroad Company, be bound or concerned by anything that was done by the person making this report. We add the further general objection that the matters therein contained are irrelevant to any issue involved in this suit.

Mr. Mills—In answer to that objection, that you are not able to cross-examine the party making the report, I will state that from hearsay I understand Mr. Cummings has been dead some years.

Mr. Hoehling—I will also state that I am informed that Mr. Cummings is dead. [1200]

Mr. Lewers—But this is not an ancient document, within the meaning of the law.

Mr. Mills—With that statement I will ask that the Commissioner mark this Government's Exhibit "RRR", and I will read the same into the record, as follows:

PLAINTIFF'S EXHIBIT R R R.

M E L DEPARTMENT OF THE INTERIOR
 GENERAL LAND OFFICE
 WASHINGTON

July 17, 1912.

I hereby certify that the annexed copy is a true and literal exemplification of the original paper on file in this office.

IN TESTIMONY WHEREOF I have hereunto
 subscribed my name and caused the seal of
 this office to be affixed, at the city of Wash-
 ington, on the day and year above written.

H. W. SANFORD,
Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE) [1201]

Special Service
Division

P. DEPARTMENT OF THE INTERIOR
 General Land Office.

Address only the
Commissioner of the General Land Office.

Bakersfield, Cal., July 13th, 1900.

Exhibit No. 1 mentioned in this
letter is map 89—California filed in
Div. L.

Hon Commissioner.

General Land Office.

Washington, D. C.

Sir:

In compliance with your instructions, see letter "P.", W. E. V., Dec. 19, 1899, directing me to investigate and report upon the mineral or non-mineral character of certain lands located in "Townships 15, 16 and 17 S. Ranges 10, 11, 12 and 13 E., M. D. M., Township 27 S. Ranges 27, 28, 29 and 30 E., M. D. M., Township # O. S., Ranges 21 and 22 E., M. D. M., Township 31 S., Range 22 E., M. D. M., and Township 11 N., Range 23 W., S. B. M., California, which are alleged to be oil lands (mineral)."

I have the honor to report as follows:—Immediately after entering upon this investigation, I was confronted with indisputable facts that warrants me in stating that the lands in question, and very much of the contiguous country, *are valuable only for their mineral worth*; there are no agricultural lands in any part of the suspended district; the mineral possibilities are something wonderful, and I make the prediction that this will soon be the largest oil field in the United States, if not in the world. I have visited all of the territory that stands suspended, and I find no people engaged in [1202] farming, cattle raising, or sheep herding, in all this vast area of land: for the simple reason that it produces nothing that will sustain man or beast; it is essentially mineral land, and from the present outlook, will soon be a great source of wealth to the State, quite likely the revenue that

will be obtained from these well known oil fields will exceed all other mineral products of the state, within a very few years. One is filled with amazement to witness the amount of development work that has been accomplished already, and the oil industry here in southern California is but a year old. These vast oil fields represent millions upon millions of dollars, and settle the fuel question of the Pacific Coast for generations to come.

I mail you a most excellent map of the country where these lands are located; the red lines are the exterior bounds of the lands that are held in suspension, and I cannot recommend too strongly, the propriety of reclassifying the same. Doubtless, here and there, parts of a Township might be set back again in the agricultural list, but if not done, the agriculturist will not suffer; there are positively no lands in all this large list that would bring five cents an acre, for farming or grazing purposes. But for mineral purposes, these same worthless lands have risen in one short year to a valuation of \$1,500 per acre in many instances, and it is a rare thing to hear any of the known oil lands offered at less than \$1,000 per acre.

I will mark the above map Exhibit No. 1, as it will necessarily plat an important part in connection with the many reports that will be forwarded to the department.

I also forwarded Exhibit No. 2; this is an Album of photo- [1203] graphic views that were taken under my personal direction and represent different por-

tions of the oil fields under consideration; they tell their own story in plainer and more eloquent terms than I can. I searched in vain for an opportunity to photograph the improvements of some of the many homestead entries that have been recently filed on these valuable mineral lands.

The fact is, every Homestead entry, or lieu selection made under the act of June 4, 1897 (30 Stat., 36), during the past year, on any of the lands now under consideration, have been fraudulently made; they were taken for their mineral worth.

There are no agricultural improvements on any one of these fraudulent entries, but we find Derricks and Oil Wells, everywhere; oil tanks in countless numbers filled to overflowing, and in many instances oil being pumped into holes dug in the ground, for the want of transportation facilities; scores of eight, ten and twelve mule teams constantly on the go to the different depots with their precious loads of oil, the same to be shipped to all parts of the country, dozens and dozens of individuals constantly arriving from various portions of the world for the purpose of engaging in the oil industry in some form or another; scores of miners, mechanics and laborers constantly arriving, and are immediately set to work at magnificent wages; train loads of mining machinery arriving at each of the Railroad depots, daily; lands that one year ago would not command \$1.00 per acre, readily selling at this time as high as \$1,500 per acre, and even higher; these are among some of the reasons that induce me to declare to the Hon Commissioner

that the lands under consideration are MINERAL, pure and simple. [1204] I will make report on 4-480 in all cases that come within the proper scope of such form. Said reports will prove conclusively that the lands under consideration are mineral.

As to the character of minerals that prevail in the tracts covered by your suspension, I will state that the following constitute the prevailing minerals to be found in paying quantities within the borders of the said lands, viz:—crude petroleum oil, asphalt, sulphur, fullers-earth, and gypsum: The first and last in fabulous quantities, asphalt in great abundance, and fullers earth in sufficient quantity to build strong hopes for its becoming a paying industry in the near future.

I have spent much time in collecting facts and figures regarding the cost of development work, already accomplished in the oil fields in this locality. It has been necessary for me to consult with, or correspond with over two hundred and fifty different Corporations, that are actively engaged in some form or another, in the development of crude petroleum oil in various portions of the suspended lands under investigation. I have received replies from about one half of the number, and promises from many who were not yet ready to report.

The earnestness and good faith of those actively engaged in developing and producing oil in the Kern River Oil District will not be questioned; it is safe to say that \$1,500,000 has been spent in development work by these fearless and honest miners. This vast

expenditure has been spent in producing crude petroleum oil, principally in Townships 27, 28 and 29 S., Ranges 27, 28 and 29 E., M. D. M. This territory is now producing large quantities of oil, and shipping to the full extent that the operators can secure transportation facilities; [1205] every barrel has to be hauled from six to seven miles, by wagon; this is a tedious and slow means of transportation; the S. P. Co. are now building a branch line into the oil field, which will be completed within 20 days, and it is claimed that the oil output in this field will soon reach 5000 barrels per day, with a prospect of 10,000 per day within a year's time. Oil is quoted at \$1.00 per barrel f. o. b. at this point; one day's income, viz: \$5,000, is more than the entire belt of suspended lands in the Kern River Oil District would command, under the most promising circumstances that it would be possible to invent, as an agricultural proposition.

I desire to call the attention of the Hon. Commissioner to the following fact: The City of Bakersfield is one of the oldest settled localities that there is in southern California. For many years, the County of Kern, in which these suspended lands are located, has been known as a cattle and sheep country; now mark this fact, notwithstanding that the principal revenue of the County was obtained from cattle and sheep husbandry, these lands that are now in dispute lay but from four to six and seven miles from said Bakersfield; had they been of any worth as an agricultural proposition, it stands to reason that every acre of the same would most naturally have been

homesteaded long ago; but, within one short year, every acre of this heretofore worthless land has become of agricultural worth, and especially to those who are engaged in the furnishing of Forest Reserve Scrip for speculative purposes. And not an acre of this land has been taken except for the oil it has been demonstrated that it contains, and that in fabulous richness. [1206]

I desire to call the attention of the Hon Commissioner to a class of mineral filings that are working almost as great an injury to this and other oil fields, as are the so called scrippers; numerous cases exist where combinations have been formed for the purpose of controlling vast areas of the public domain, ostensibly, under the United States laws that govern mineral filings on the public domain. In so far as I have been able to learn the facts of the case, without making an abstract of the lands that are thus held down by the combinations referred to above, said parties have placed mineral filings upon more than 250,000 acres of the public domain, in the counties of Kern and Fresno, alone. In order that the parties engaged in scripping the lands that are now known to be unmistakeably mineral might have an argument in their favor, they caused to be made a complete and accurate list of said filings. They are attested, under oath, and I assume that they are practically correct. This sworn statement shows that in Kern County alone, within a year 103 persons have located 8,248 placer petroleum mining claims of twenty acres each, an average of over eighty claims

of 1.600 acres to the person, or a total of 164,960 acres.

The statement from Fresno County makes a similar showing, covering the time between January 1, 1899, and March 1, 1900, 97 persons have located 5.983 placer petroleum claims of twenty acres each, an average of over sixty claims; 1.200 acres to the person, or a total of 119,660 acres.

The parties making these numerous filings, have made no sort of improvement or development; they would seem to be purely speculative in character, and many of them are patrolled, and otherwise held by force. [1207]

I have accumulated a mass of documentary evidence that goes to prove as conclusively as it is possible to do under existing circumstances, that quite all of the territory that you have suspended in connection with the oil lands of the San Joaquin Valley, California, are mineral (oil). I am waiting on Mr. E. E. Bush of Hanford, Cal. and J. B. Treadwell, of San Francisco, for valuable reports that they are preparing, as experts, for the use of the Hon. Commissioner in connection with the matter in hand; I am promised said reports in a very few days, and will immediately forward the same with other documents to the Department. The affidavits that I have secured are connected with cases that will be immediately reported on form 4-480, and the same affidavits will be used in a large number of cases. I herewith present the names of upwards of forty good and true representative men of California, who have

given me permission to use their names in any court, at any time, as witnesses to prove that the lands under suspension are mineral:—E. E. Bush, Hanford, Cal. C. H. Congdon, Bakersfield, Cal. W. E. De Groot, Los Angeles, Cal.; C. A. Canfield, Los Angeles, Cal.; Milton McWhorter, Bakersfield, Cal.; W. H. Shafer, Selma, Cal.; Timothy Spellacy, Bakersfield; J. J. Mack, Bakersfield; also of the same place, Jno. P. Kerr, W. M. Spencer, H. P. Bender, J. M. Keith, Walter James, J. M. Jameson, H. W. McCray, T. L. Reed, and Alvin Fay; also J. A. Stroude, Oakland, T. P. Spiers, San Jose, W. E. Knowles, Oakland, C. A. Fuller, Oakland, Maurice V. Samuels, San Francisco, W. T. Sesnon, Geo. L. Hoxie, Fresno, Hanford, W. S. Badger, Fresno, W. F. Chandler, Selma, J. B. Treadwell, San Francisco, W. F. Sesnon, San Francisco, H. H. Blood, San Francisco, F. L. Doheney, W. P. Book, and Jos. A. [1208] Chanselor, of Los Angeles; A. B. Butler, Fresno, I. W. Ross, San Francisco, G. V. Sessions, Sacramento, and Chas. S. Young, of San Francisco, all of California. Each and every one of these gentlemen are calculated to make first class witnesses; they understand the gravity of the question under investigation; I have talked with every one of the number, and as before stated, they are quite willing to respond whenever called upon. I have selected them because they will know what they are talking about when put upon the witness stand, or in any other manner that it is possible the Government wishes to call upon them. I want to say right

here that I might have extended this list to 100 if necessary. The list that I present represents expert miners, bankers, merchants, professional gentlemen, and hardy miners.

I have written and revised several reports to forward the Hon Commissioner in the matter now under consideration; so manifold have been the changes that have occurred of grave import, since entering upon this investigation, that one after the other have been case aside in consequence of their inferiority; this, I forward as a preliminary; the interests that are involved requires long and faithful study; I am doing the best that I know how; I will send in a special report recommending the immediate suspension of *all* filings that have been made under the Act of June 9 1897; also, all homestead entries that have been made, since March 1, 1899. I of course refer to such as has been made within the bounds of the suspended lands; there is not one of them that will stand fire; after a report has been perfected on form 4-480.

I wish it were possible for me to properly impress upon [1209] the Hon Commissioner the vast importance of the matter under consideration; it cannot be overestimated; should the lands under investigation be restored at this time, scrippers and would be homesteaders would soon cover all the territory involved in the suspension. It is idle to talk of these lands from an agricultural standpoint; a sheep could not exist on 1000 acres of it, and it would be quite impossible for a homesteader to make a living on 50,-

000 acres, provided he depended on the surface of the soil from which to make it.

I will forward the remaining papers relating to this matter at the very earliest day; I am quite sure, within five days.

Very respectfully,

JAY CUMMINGS.

Special Agent, G. L. O.

(Endorsement on Back)

1901—29536.19

Encl 3

U. S. General Land Office 20

Received Jul 21 1900 B

96787 124

Jay Cummings.

Bakersfield, Cal.

July 14th, 1900.

Makes preliminary report in the matter of letter "P.", W. E. V., December 19, 1899, directing that certain lands located in the Los Angeles, and Visalia Land District, California, be examined and reported upon as to the allegation that they were oil lands (mineral). [1210]

Ackd July 21, 1900

May 23, 1902 Refd to N

H. H. J.

Asst. Chief R

N Valk.

The exhibit last referred to and offered in evidence is marked Plaintiff's Exhibit "RRR".

Mr. Mills—The Exhibit just offered and read into the record refers to a map, numbered 89, known as Exhibit 1. The original of the map I have here, and will offer this original in evidence, with the stipulation that we may withdraw the same, if you gentlemen will stipulate it, and substitute a certified copy. On the certified copy of this map, the lines which appear as red on the original of the map appear as white.

Mr. lewers—I have no objection to that arrangement, provided that in case it is desired at any time in the future, we can have the original for use in court upon demand.

Mr. Mills—Yes.

The map last referred to and offered in evidence is marked Plaintiff's Exhibit "SSS."

Mr. Mills—I offer in evidence a certified copy, exemplified under the seal of the General Land Office, of a letter by D. A. Chambers, attorney for the Southern Pacific Railroad, addressed to the Commissioner of the General Land Office, dated October 7, 1903, which I will read into the record, as follows: [1211]

PLAINTIFF'S EXHIBIT T T T

B. DEPARTMENT OF THE INTERIOR
M E L GENERAL LAND OFFICE
WASHINGTON

June 8, 1912.

I hereby certify that the annexed copy is a true and literal exemplification of the original letter on file in this office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

H. W. SANFORD

Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE).

D. A. Chambers

Attorney

McGill Building, 908 G Street, N.W.

Washington, D. C.

Division P.

Visalia Application List 87, indemnity limits;

“ “ “ 44, primary limits.

October 7, 1903.

The Honorable

Commissioner of the

General Land Office.

Sir:

The Southern Pacific Railroad Company applied to select [1212] in the above list No. 87 the SE $\frac{1}{4}$

of Section 23, the SW $\frac{1}{4}$ of Sec. 25, and the SW $\frac{1}{4}$ of Sec. 27, T. 32 S., R. 25 E., M. D. M., 480 acres, and in the above List 44 the SW $\frac{1}{4}$ Sec. 1, T. 30 S., R. 23 E., 160 acres. These applications were filed in the Los Angeles land office in October and November, 1900.

The Register & Receiver refused to approve said lists on the ground that the lands had been suspended from disposal by telegrams dated February 21 (or 23) and 28, 1900, respectively. In consequence of such action a large body of lands, including said 640 acres, were by said telegrams "temporarily" withdrawn because alleged to contain petroleum.

By the withdrawals mentioned, the Railroad Company is barred from having its said application lists approved by the Register and Receiver.

The Land Agent for the Railroad Company advised me that the lands are non-mineral in character and I, therefore, respectfully ask that a Special Agent be instructed to *at once* examine the said lands and report thereon to your office.

Very respectfully,

D. A. Chambers,

Attorney Southern Pacific RR. Co.

—o0o—

34

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342

(Endorsement on Back)
U. S. General Land Office,
Received Oct 8 1903

128/56

169269

D. A. Chambers

Oct. 7-1903 City

As Atty for Southern Pac. Ry. Co.—asks special Agent examine character lands in Visalia App'n list 87 Indty limits, [1213] & Visalia Appn list 44 Primary Limits

Calf

Refd Div "N" Oct. 14/03 JDY

P Ans Oct 23 1903 ECF

The document last referred to and offered in evidence and read into the record is marked Plaintiff's Exhibit "TTT".

Mr. Mills—I also offer in evidence a certified copy of letter addressed to E. C. Ryan, special agent, General Land Office, dated October 23, 1903, signed by J. H. Fimple, Assistant Commissioner, exemplified under the seal of the General Land Office, which I will read into the record, as follows:

PLAINTIFF'S EXHIBIT U U U.

—o0o—

B. DEPARTMENT OF THE INTERIOR

M E L GENERAL LAND OFFICE 4-207-r
WASHINGTON

April 5, 1912.

I hereby certify that the annexed copy of office letter dated October 23, 1903, is a true and literal exemplification from the record of said letter in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of
this office to be affixed, at the city of Washing-
ton, on the day and year above written.

H. W. SANFORD

Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE).

[1214]

N.

H. O. C.

DEPARTMENT OF THE INTERIOR
E.C.F. GENERAL LAND OFFICE, HGP
WASHINGTON, D. C., October 23, 1903.

Address only the
Commissioner of the General Land Office.
Southern Pacific R. R. Co.,
Ex parte

Quasi Contests 1997 and 1998.

Mr. E. C. Ryan,
Special Agent, G. L. O.,
Los Angeles, California.

Sir:

The Southern Pacific Railroad Company has filed
application in the Visalia land office to select the
SE $\frac{1}{4}$ Sec. 23, the SW $\frac{1}{4}$ Sec. 25 and SW $\frac{1}{4}$ Sec. 27,
T. 32 S., R. 25 E., M. D. M., and the SW $\frac{1}{4}$ Sec 1,
T. 30 S., R. 23 E., M. D. M. The lands in the above
named townships were suspended from disposition
under the agricultural land laws on account of their
alleged mineral (oil) character by telegrams "P" of
February 21st and 28, 1900. It is alleged by the rail-

road company that the tracts above described are in fact non-mineral in character. You are therefore directed, in the regular order of business, to proceed to and examine the lands in question and thereafter submit report to this office stating whether or not in your opinion the same should be relieved from suspension. When making report please refer to Quasi Contests 1997 and 1998.

Very respectfully,

J. H. FIMPLE,

Assistant Commissioner.

WPW 17

[1215]

The document last above referred to and offered in evidence and read into the record is marked Plaintiff's Exhibit "UUU."

Mr. Mills—I also offer certified copy of letter dated November 30, 1903, addressed to the Commissioner of the General Land Office, by D. A. Chambers, exemplified under the seal of the General Land Office, and ask that it be marked Plaintiff's Exhibit "VVV", and I will read it into the record, as follows:

PLAINTIFF'S EXHIBIT V V V

"B"

4-207 r

M E.L

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

July 30, 1912.

I hereby certify that the annexed copy of letter dated November 30, 1903, is a true and literal exemplification of the original on file in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of this
office to be affixed, at the City of Washington,
on the day and year above written.

H. W. SANFORD,
Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE.)

[1216]

D. A. CHAMBERS,
ATTORNEY,
McGILL BUILDING 908 G Street, N. W.
Washington, D. C.

Division P

November 30, 1903.

The Honorable
Commissioner of the
General Land Office.

Sir:

The following lands are within the indemnity limits of the grant made to the Southern Pacific Railroad Co., by the Act of July 27, 1866, to-wit:

All Sec. 15, NE $\frac{1}{4}$ and S $\frac{1}{2}$ Sec. 17, NE $\frac{1}{4}$ and S $\frac{1}{2}$ Sec. 19, all of Sections 21, 23, 25, 27, 29, 33 and 35, T. 30 S., R. 23 E., M. D. M., Visalia land district, California.

These lands, if not oil lands, are subject to selection by the Company under its grant. But, on the allegation that they contained oil, the said lands, by your office telegram of the Register and Receiver, "P", February 28, 1900, were suspended from entry, etc.

Nearly four years have elapsed since said telegram of suspension was issued on mere allegation—a sufficient time, it would seem, to ascertain whether the lands are valuable for oil or not—but an examination of the tract books in your office fails to show the entry of a single acre of these lands under the Act allowing entry of lands valuable for oil.

Upon my request of October 7, 1903, your office wrote me October 23rd (Quasi Contests 1997 and 1998) “that an investigation” of other lands described, (among them the SW $\frac{1}{4}$ Sec. 1 [1217] of said T. 30 S., R. 23 E.) “will be made by an agent of this “office and upon receipt of this report appropriate action will “be taken upon the application of the Company to select same.”

I, therefore, respectfully ask that a special agent be instructed to *at once* examine said lands and report thereon to your office.

Very respectfully,

D. A. Chambers,

Attorney Southern Pacific R. R. Co.

(Endorsement on Back)

26

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57

U. S. GENERAL LAND OFFICE,

RECEIVED DEC. 7, 1903

204885

D. A. Chambers,
City.

Nov. 30, 1903.

Asks that desc. lands within grant to S. P. R. R. Co. be examined.

Ans. Dec. 10, 1903.

E. C. F.

To Spl Agt. Ryan same date.

File.

N.

1 Enc.

The document last referred to, offered in evidence and read into the record, is marked Plaintiff's Exhibit "VVV."

Mr. Lewers—Unless I make an additional objection, [1218] the offers made may be considered as objected to on the grounds heretofore stated.

Mr. Mills—Yes. I now offer in evidence a certified copy of a letter dated December 10, 1903, addressed to E. C. Ryan, special agent, signed J. H. Fimple, Acting Commissioner, exemplified under the seal of the General Land Office, and ask that the same be marked Plaintiff's Exhibit "WWW," and will read it into the record, as follows:

4-207 r

B. PLAINTIFF'S EXHIBIT W W W.

M E L

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

April 5, 1912.

I hereby certify that the annexed copy of office letter dated December 10, 1903, is a true and literal exemplification from the record of said letter in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of
this office to be affixed, at the city of Wash-
ington, on the day and year above written.

H. W. SANFORD.

Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE.) [1219]

N.

H.G.P.

DEPARTMENT OF THE INTERIOR
E.C.F. GENERAL LAND OFFICE,
WASHINGTON, D. C., December 10, 1903.

Address only the
Commissioner of the General Land Office.

Mr. E. C. Ryan,
Special Agent G. L. O.,
Los Angeles, California.

Sir:

By letter of this office dated October 23, 1903, in
case of *ex parte* Southern Pacific Railroad Company,
Quasi Contests 1997 and 1998, you were directed to
proceed to and examine the SE $\frac{1}{4}$ Sec. 23; the SW $\frac{1}{4}$
Sec. 25; the SW $\frac{1}{4}$ Sec. 27, T. 32 S., R. 25 E., and
the SW $\frac{1}{4}$ Sec. 1, T. 30 S., R. 23 E., said tracts having
been applied for by the railroad company and to sub-
mit report to this office stating whether or not in your
opinion same should be relieved from the suspension
placed thereon by telegrams "P" of February 21st
and 28, 1900.

The Southern Pacific Railroad Company has now

requested that the following lands be also examined in order that same may be relieved from suspension and made subject to selection by the Company, being within the indemnity limits of its grant, if such examination discloses that same are agricultural in character. It is stated that nearly four years have elapsed since the order of suspension and that no mineral entries have been made for any of said lands. The lands referred to are described as follows: All section 15; NE $\frac{1}{4}$ and S $\frac{1}{2}$ Sec. 17; NE $\frac{1}{4}$ and S $\frac{1}{2}$ Sec. 19; all of sections 21, 23, 25, 27, 29, 33 and 35, T. 30 S., R. 23 E., M. D. M. You are accordingly [1220] directed, when you make examination of the lands first described to also examine the tracts just enumerated and to promptly thereafter submit report as to whether or not in your opinion same should be relieved from suspension.

This office has no available force from which to assign you assistance at the present time. With this condition of affairs in view, you will make report based upon the examinations heretofore made, your knowledge of the lands remaining to be examined, and familiarity with the country generally, as to whether in your opinion there is any necessity for the continuance of the suspension of the lands in the Visalia, San Francisco and Los Angeles land districts suspended by this office in 1900, and not reported upon, a list of which you have.

Very respectfully,

J. H. FIMPLE,
Acting Commissioner.

The document last offered in evidence and read into the record was marked Plaintiff's Exhibit "WWW."

Mr. Mills—I offer now copy of a letter addressed to the Commissioner of the General Land Office, certified, and under the seal of that office, dated January 22, 1904, signed E. C. Ryan, special agent, and ask that it be marked Plaintiff's Exhibit "XXX," and I will read it into the record as follows: [1221]

PLAINTIFF'S EXHIBIT XXX

B.

4-207r

MEL DEPARTMENT OF THE INTERIOR

General Land Office

Washington

April 5, 1912.

I hereby certify that the annexed copy, report of Special Agent E. C. Ryan, dated January 22, 1904, is a true and literal exemplification of the original paper in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of this
office to be affixed at the city of Washington,
on the day and year above written.

(Seal of the General
Land Office)

H. W. SANFORD,

Recorder of the General Land Office.

DEPARTMENT OF THE INTERIOR 88085

General Land Office.

Los Angeles, Cal., January 22, 1904.

Hon. Commissioner
General Land Office,
Washington, D. C.

Sir:—

By your letter ("N" E.C.F.) of October 23, 1903, in case of *ex parte* Southern Pacific Railroad Company, Quasi Contests 1997 and 1998, I was directed to proceed to and examine the SE $\frac{1}{4}$ Section 23; the SW $\frac{1}{4}$ Section 25; the SW $\frac{1}{4}$ Section 27, Township 32 S., Range 25 E., M.D.M., and the SW $\frac{1}{4}$ Section [1222] 1, Township 30 S., Range 23 E., M.D.M., said tracts having been applied for by the railroad company, and to submit report stating whether or not in my opinion same should be relieved from the suspension placed thereon by telegrams "P" of February 21st and 28th, 1900.

By your letter ("N" E.C.F.) of December 10, 1903, I was directed to also examine Section 15; NE $\frac{1}{4}$ and S $\frac{1}{2}$ Section 17; NE $\frac{1}{4}$ and S $\frac{1}{2}$ Section 19; Sections 21, 23, 25, 27, 29, 33 and 35, Township 30 S., Range 23 E., M.D.M., and to submit report as to whether or not in my opinion said lands should be relieved from suspension.

I have the honor to report that on January 10th, 11th, 12th, 13th and 14th, 1904, I made a careful examination of the lands in question and found no oil seepages, oil springs, surface or other indications of oil or minerals of any kind that would tend, in my opinion, to warrant said lands being classed as min-

eral in character, and I respectfully recommend that they be relieved from suspension.

Very respectfully,

E. C. RYAN,
Special Agent, G. L. O.

(Endorsement on back)

167/57 U. S. GENERAL LAND OFFICE.
RECEIVED Jan. 30, 1904. 19630.

E. C. Ryan,
Special Agent, G. L. O.,
Los Angeles, Cal.

January 22, 1904.

[1223]

Report as to the mineral (oil) character of certain lands in Tp. 30 S., R. 23 E. and Tp. 32 S., R. 25 E., M.D.M., applied for by the Southern Pacific Railroad Company. Instructions—office letters “N” E.C.F. October 23 and December 10, 1903.

Feby 11/04 R. & R. Visalia ECF

“ 20 “ “ “ “ “

The document last referred to, offered in evidence, and read into the record, was marked Plaintiff’s Exhibit “XXX”.

Mr. Mills—I now offer in evidence a certified copy of a letter dated February 11, 1904, exemplified under the seal of the General Land Office, addressed to the register and receiver at Visalia, California, signed by J. H. Fimple, Assistant Commissioner, and ask that the same be marked Plaintiff’s Exhibit “YYY”, and I will read it into the record, as follows:

Mr. Lewers—To that letter we have no objection.
Mr. Mills—The letter just referred to, and offered
in evidence, I will read into the record as follows:

PLAINTIFF'S EXHIBIT Y Y Y

B.

4-207 r

M E L DEPARTMENT OF THE INTERIOR

General Land Office,
Washington

April 5, 1912.

I hereby certify that the annexed copy of office
letter dated February 11, 1904, is a true and literal
exemplification [1224] from the record of said letter
in this office.

IN TESTIMONY WHEREOF I have hereunto

(SEAL OF THE	subscribed my name and caused
GENERAL LAND	the seal of this office to be af-
OFFICE)	fixed at the city of Washington,
	on the day and year above writ-
	ten.

H. W. Sanford,
Recorder of the General Land Office.

DEPARTMENT OF THE INTERIOR

N.

W.O.C. H.G.P.

ECF

General Land Office,
Washington, D. C.,

February 11, 1904.

Address only the
Commissioner of the General
Land Office.

Southern Pacific Railroad Company,

Ex parte.

Quasi Contest No. 1997.

Register and Receiver,
Visalia, California.

Sirs:

October 23, 1900, the Southern Pacific Railroad Company presented to your office for filing Secl. list No. 44, granted limits, for the SW $\frac{1}{4}$ Sec. 1, Tp. 30 S., R. 23 E., M.D.M., which selection was rejected by your office on the grounds that the land applied for was situated in a township suspended by this office February 28, 1900.

December 7, 1900 the Railroad Company filed an appeal from your said decision.

The said SW $\frac{1}{4}$ Sec. 1, has by even date been relieved [1225] from suspension and while your action in rejecting the list appears to have been correct in view of the then existing suspension there would appear now no objection to the allowance of said selection, which is herewith returned for appropriate action.

Quasi Contest No. 1997 is declared closed.

Very respectfully,

J. H. Fimple,

Assistant Commissioner.

The document last referred to, offered in evidence, and read into the record, is marked Plaintiff's Exhibit "YYY."

Mr. Mills—I offer now in evidence a certified copy exemplified under the seal of the General Land Office, of a letter dated February 11, 1904, to the register and receiver at Visalia, California, signed J. H. Fimple, Assistant Commissioner, and ask that the same be marked Plaintiff's Exhibit "ZZZ", and I will read the same into the record, as follows:

Mr. Lewers—We have no objection to the introduction of this letter; but in this connection, as these letters are being offered without any witness, we desire to call attention to the fact that they are initialed—this particular one and others—E.C.F., W.O.C. and H.G.P. Couldn't we reach an agreement as to who those persons are?

Mr. Mills—Mr. E. C. F. is Mr. Finney, and we will call him as a witness. I don't know who the others are.

Mr. Hoehling—W.O.C. is W.O.Conway, a law examiner. He is now dead. H.G.P. is Mr. Potter, and he is dead. [1226]

Mr. Lewers—Then it is agreed that with the exception of E. C. Finney those persons whose initials appear there are now dead?

Mr. Mills—Yes. I will now read the exhibit into the record, as follows:

PLAINTIFF'S EXHIBIT Z Z Z

B.

4-207r

M. E. L. DEPARTMENT OF THE INTERIOR
General Land Office
Washington

June 14, 1912.

I hereby certify that the annexed copy of office letter dated February 11, 1904, is a true and literal exemplification from the record of said letter in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of
this office to be affixed, at the city of Wash-
ington, on the day and year above written.

(SEAL OF THE
GENERAL LAND
OFFICE)

John O'Connell

Acting Recorder of the General Land Office.

N. DEPARTMENT OF THE INTERIOR W. O. C.
E. C. F. General Land Office, H. G. P.
Washington, D. C., February 11, 1904.

Address only

The Commissioner of the
General Land Office. [1227]

Register and Receiver,
Visalia, California.

Sirs:

By telegrams "P" of February 21 and 28, 1900,
Townships 30 S., Range 23 E., and 32 S., 25 E., M. D.
M. were suspended from disposition under the agri-

cultural land laws upon allegations that same contained deposits of mineral (oil).

I am now in receipt of a report from a Special Agent of this office who has examined the SW $\frac{1}{4}$, Sec. 1. Sec. 15, NE $\frac{1}{4}$ and S $\frac{1}{2}$, Sec. 17. NE $\frac{1}{4}$ and S $\frac{1}{2}$, Sec. 19; Sections 21, 23, 25, 27, 33, 35, Tp. 30 S., R. 23 E., SE $\frac{1}{4}$, Sec. 23, SW $\frac{1}{4}$ Sec. 25 and the SW $\frac{1}{4}$, Sec. 27, Tp. 32 S., R. 25 E., M. D. M. and who states that a careful examination thereof failed to disclose any oil seepages, oil springs, surface or other indications of oil or minerals of any kind that would tend to warrant the lands being classed as mineral. He recommends that same be relieved from suspension. The statements made in the Special Agent's report are not controverted by the records of this office and it would appear that during the period of nearly four years, which has elapsed since said suspension, any persons interested in the mineral development of the lands have had ample opportunity to explore and develop the same.

In view of these facts, it appearing that no oil or mineral of any kind has been discovered upon the lands in question it is believed that no good reason exists for the further suspension thereof. Accordingly, the lands hereinabove described are hereby relieved from suspension.

Make the proper notations upon your records.

Very respectfully,

J. H. Fimple,

Assistant Commissioner. [1228]

The document last referred to, offered in evidence,

and read into the record, is marked Plaintiff's Exhibit "ZZZ."

Mr. Mills—I now offer a certified copy of a letter dated February 20, 1904, exemplified under the seal of the General Office, addressed to the register and receiver at Visalia, California, signed W. A. Richards, Commissioner, and ask that the same be marked Plaintiff's Exhibit "4A," and I will read it into the record, as follows:

PLAINTIFF'S EXHIBIT Z Z Z

B.

4-207r

M. E. L. DEPARTMENT OF THE INTERIOR

General Land Office

Washington

June 14, 1912.

I hereby certify that the annexed copy of office letter dated February 11, 1904, is a true and literal exemplification from the record of said letter in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused
(SEAL OF THE the seal of this office to be af-
GENERAL LAND fixed, at the city of Washing-
OFFICE) ton, on the day and year above
written.

John O'Connell

Acting Recorder of the General Land Office. [1229]

N. DEPARTMENT OF THE INTERIOR

ECF General Land Office, H.G.P

Washington, D. C. February 20, 1904.

Address only the
Commissioner of the General
Land Office.

Register and Receiver,
Visalia, California.

Sirs:

Telegram "P" of February 28, 1900, suspended lands in T. 30 S., R. 23 E., M.D.M., from disposition under the agricultural land laws, it being alleged that same contain deposits of oil. During the month of January 1904, a special agent of this office examined section 29 of said township and reports that he found no oil seepages, oil springs, surface or other indications of oil or minerals of any kind upon said section. He recommends that same be relieved from suspension. No objection thereto appearing upon the records of this office said recommendation is concurred in and Sec. 29, T. 30 S., R. 23 E., M.D.M., is hereby relieved from suspension.

Very respectfully,

W. A. Richards,
Commissioner.

The document last referred to, offered in evidence, and read into the record, is marked Plaintiff's Exhibit "4 A."

Mr. Lewers—We have no objection to that exhibit.

Mr. Mills—I now offer in evidence a certified copy of a letter dated March 22, 1904, exemplified under the seal of the General Land Office, addressed to the Commissioner [1230] of the General Land Office,

signed by E. C. Ryan, special agent, and ask that it be marked Plaintiff's Exhibit |4 B'' and I will read it into the record as follows:

PLAINTIFF'S EXHIBIT 4-B

4-207r

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

April 5, 1912.

I hereby certify that the annexed copy of report of Special Agent E. C. Ryan, dated March 22, 1904, is a true and literal exemplification from the copy on file in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused
the seal of this office to be af-
(SEAL OF THE fixed, at the city of Washing-
GENERAL LAND ton, on the day and year above
OFFICE) written.

H. W. Sanford,
Recorder of the General Land Office.

(COPY)

DEPARTMENT OF THE INTERIOR

General Land Office.

623 Butler Bldg.,
San Francisco, Cal.

Los Angeles, Cal., March 22, 1904.

Hon. Commissioner,

General Land Office,

Washington, D. C.

[1231]

Sir:—

Referring to your letter ("N" E.C.F.) of December 10, 1903, directing me to make report based upon the examinations heretofore made, my knowledge of the lands remaining to be examined, and familiarity with the country generally, as to whether in my opinion there is any necessity for the continuance of the suspension of the lands in the Visalia, San Francisco and Los Angeles land districts suspended by your office in 1900, and not reported upon, I now have the honor to submit report upon the following described lands:—

Township	Range.	
19 S	15 E., M.D.M.	
27 S	27 E.,	" Sec. 25 to 36 Incl.
28 S	27 E.,	" Secs. 11, 12, 13, 14, 23, 24, 25, 26, 35 and 36.
28 S	28 E.,	"
29 S	28 E.,	" Secs. 2 to 1 incl.
29 S	20 E.,	"
29 S	21 E.,	"
29 S	22 E.,	"
30 S	21 E.,	"
30 S	22 E.,	"
30 S	23 E.,	"
31 S	22 E.,	"

31 S	23 E.,	“	
31 S	24 E.,	“	
31 S	25 E.,	“	
32 S	20 E.,	“	
32 S	22 E.,	“	
32 S	23 E.,	“	[1232]
32 S	24 E.,	“	
32 S	25 E.,	“	
11 N	23 W.,	S.B.M.	
11 N	24 W.,	“	
11 N	28 W.,	“	
12 N	23 W.,	“	
12 N	28 W.,	“	

T. 19 S., R. 15 E., is in what is known as the Coal-
 inga Oil Field, and is said by a number of mining
 men to be one of the best oil fields in the State. So
 far as I have been able to ascertain, there are about
 90 producing wells in this township, among them
 being the famous well known as the “Blue Goose,”
 which has been in active operation for several years
 and has produced for its owners, I am informed,
 more than a million of dollars. Many wells are now
 being bored for oil in this township, nearly all of
 which I believe will be large producers. In my opin-
 ion it will be well to have all the lands in this town-
 ship remain under suspension for the present.

T. 27 S., R. 27 E., Sections 25 and 36 inclusive, I
 know of no wells in these sections, and in my opinion
 there is no necessity for the continuance of the sus-
 pension of said lands.

T. 28 S., R. 27 E., Sections 11, 12, 13, 14, 23, 24, 25, 26, 35, 36. So far as I have been able to ascertain, there are 7 wells in Sec. 24, 5 in Sec. 25, and 2 in Sec. 36, in all of which, it is said, oil has been found. Said sections are in what is known as the Kern River Oil Field. In my opinion Sections 11, 12, 13, 14, 23, 26 and 35 should be relieved from suspension, but I believe it will be well to have Sections 24, 25 and 36 remain under suspension. [1233]

T. 28 S., R. 28 E., is in what is known as the Kern River Oil Field. There are a great many producing oil wells in the S $\frac{1}{2}$ of this township; so far as I have been able to ascertain 7 wells have been bored in the S $\frac{1}{2}$ of Sec. 19, 1 in the NW $\frac{1}{4}$ and 4 in the S $\frac{1}{2}$ of Sec. 20, 1 in the SW $\frac{1}{4}$ Sec. 21, about 36 in Sec. 28, and a great many in Sections 29, 30, 31, 32, 33 and 34, in all of which it is said oil has been obtained. Many of these wells are large producers. It is said by mining men who know the field well that the northern part of this township is not now considered to be of value for its mineral. In my opinion there is no necessity for the continuance of the lands in Sections 1 to 18 inclusive, but think that Sections 19 to 36 inclusive should remain under the order of suspension.

T. 29 S., R. 28 E., Sections 2 to 11 inclusive. These sections are also in the Kern River Oil Field. There are, so far as I can learn, 5 oil wells in Sec 2, about 92 in Sec. 3, about 176 in Sec. 4, about 80 in Sec. 5, 13 in Sec. 8, 11 in the NW $\frac{1}{4}$ Sec. 9, 1 in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 10, and 2 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 11.

In my opinion it will be well to have these sections remain under your order of suspension.

T. 29 S., R. 20 E. So far as I am able to ascertain 5 wells were bored in Sec. 36 and 1 in the NE $\frac{1}{4}$ of Sec. 13, in which only a small quantity of oil was obtained. This does not appear to be a productive territory, and in my opinion there is no necessity for the continuance of the suspension of the lands in this township. [1234]

T. 29 S., R. 21 E. From all I can ascertain 4 wells were bored in the N $\frac{1}{2}$ of Sec. 19 and one in the S $\frac{1}{2}$ of Sec. 7, in which a small quantity of oil was obtained, one well was bored in Sec. 32 and 2 wells were bored in Sec. 31, all of which I am informed, have been abandoned. In my opinion there is no necessity for the continuance of the suspension of the lands in this township.

T. 29 S., R. 22 E. So far as I have been able to ascertain no wells have been bored for oil, and in my opinion the lands in this township should be relieved from further suspension.

T. 30 S., R. 21 E., is in what is known as the McKittrick Oil Field. About 40 wells have been bored in this township, in all of which, I am informed, oil has been obtained. Said wells are in S $\frac{1}{2}$ of Sec. 11. Sections 12 and 13, and lot 73, Sec. 14 (Patented). Several other wells have been bored for oil and abandoned. The greater portion of the lands in this township are chiefly valuable for agriculture (grazing) purposes, and it is my opinion that all the lands

therein, except the S $\frac{1}{2}$ of Sec. 11, Sections 12 and 13, should be relieved from further suspension.

T. 30 S., R. 22 E., is in the McKittrick Oil Field. Many wells have been bored for oil in this township, some of which are fairly good producers. So far as I have been able to ascertain there is 1 oil well in Sec. 6, and 1 oil well in Sec. 7, 6 wells have been bored in Sec. 18, all of which are said to contain oil; 14 wells have been bored in Section 19 in 11 of which oil was found and the others [1235] have been abandoned; 24 wells bored in Sec. 20, 21 of which are said to contain oil, and the others have been abandoned; 1 oil well in Sec. 27; 8 wells bored in Sec. 28, all of which have been abandoned; 17 wells bored in the NE $\frac{1}{4}$ Sec. 29, all of which are said to contain oil; 3 wells bored in the NW $\frac{1}{4}$ Sec. 29 and abandoned; 1 well bored in the SW $\frac{1}{4}$ Sec. 29 and abandoned; 1 well bored in the NE $\frac{1}{4}$ Sec. 30 and abandoned; 5 wells bored in Sec. 34, all of which are said to contain oil. The productive territory appears to be very well known and outlined, and in my opinion there is no necessity for the continuance of the suspension of the lands in this township, except Sections 6, 7, 18, 19, 20, 27, E $\frac{1}{2}$ Sec. 29 and 34.

T. 30 S., R. 23 E. No wells have been bored for oil, and in my opinion all the lands in this township should be relieved from further suspension.

T. 31 S., R. 22 & 23 E. Wells have been bored, but I know of no successful result, and in my opinion all the lands in these townships should be relieved from suspension.

T. 31 S., R. 24 E., is not considered to be in a probable oil-producing territory and my opinion all the lands therein should be relieved from suspension.

T. 31 S., R. 25 E., is not considered to be in a probable oil-producing territory. I know of no oil wells in this township, and in my opinion all the lands therein should be relieved from further suspension.

T. 32 S., R. 20 E. I know of no oil wells in this township, and in my opinion there is no necessity for the continuance of the suspension of the lands therein. [1236]

T. 32 S., R. 22 E. There are no oil wells in this township, so far as I have been able to ascertain, and it is my opinion that all the lands therein should be relieved from suspension.

T. 32 S., R. 23 E., is in what is known as the South Midway Oil Field. In this township there are, so far as I have been able to ascertain, about 38 oil wells, 2 of which are in Sec. 5, 1 in Sec. 6, 6 in Sec. 8, 2 in Sec. 9, 1 in Sec. 15, 2 in Sec. 17, 3 in Sec. 21, 4 in Sec. 22, 4 in Sec. 23, 5 in Sec. 25, 7 in Sec. 26, and 1 in Sec. 27; other wells are being bored in a few of these sections. In my opinion it will be well to have the above mentioned sections remain under suspension, and relieve from further suspension Sections 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 16, 18, 19, 20, 24 and 28 to 36 inclusive.

T. 32 S., R. 24 E. In my opinion there is no necessity for the continuance of the suspension of the lands in this township, except Sections 30, 31, and 32, which are thought to be in the oil belt. From all I

can learn 2 wells are being bored for oil in Sec. 30, 3 wells have been bored in Sec. 31 and 1 in Sec. 32 in which it is said oil has been obtained.

T. 32 S., R. 25 E. I know of no oil wells in this township and in my opinion all the lands therein should be relieved from further suspension.

T. 11 N., R. 23 W. So far as I have been able to ascertain 19 wells have been bored in this township, all of which are said to contain oil; said wells are in Sections 7, 17, 18, 19 and 20. In my opinion there is no necessity for [1237] the continuance of the suspension of the lands in this township, except Sections 7, 17, 18, 19 and 20.

T. 11 N., R. 24 W., is in what is known as the Sunset Oil Field. About 70 wells have been bored in this township in which it is said oil has been obtained; said wells are in Sections 1, 2, 3 11, 12, 13 and 16; many other wells are being bored in said sections. Wells have been bored in Sections 14, 23 and 22, all of which have been abandoned. In my opinion there is no necessity for the continuance of the suspension of the lands in this township, except Sections 1, 2, 3, 11, 12, 13, 16.

T. 11 N. R. 28 W. I know of no oil wells in this township, and in my opinion all the lands therein should be relieved from suspension.

T. 12 N., R. 23 W. I know of no producing wells in this township, and it is my opinion that all the lands embraced therein should be relieved from further suspension.

T. 12 N., R. 28 W. I know of no producing wells in this township, and it is my opinion that all the lands embraced therein should be relieved from further suspension.

Very respectfully,
(Sg) E. C. Ryan
Special Agent, G. L. O.

The document last referred to, offered in evidence, and read into the record, is marked Plaintiff's Exhibit "4 B."

Mr. Mills—I now offer in evidence a certified copy of a letter dated April 5, 1904, exemplified under the seal of [1238] the General Land Office, addressed to the register and receiver at Visalia, California, signed J. T. Macey, and ask that it be marked Plaintiff's Exhibit "4-C", and I will read it into the record as follows:

Mr. Lewers—To the letter of March 22, 1904, written by E. C. Ryan to the Commissioner of the General Land Office, we make the same general objection as heretofore made.

Mr. Mills—What was that?

Mr. Lewers—The same general objection as made to the letters offered from the Chambers letter book. To the last exhibit offered of date April 5, 1904, we have no objection.

Mr. Mills—I will read into the record the letter of April 5, 1904, as follows:

PLAINTIFF'S EXHIBIT 4-C.

M E L DEPARTMENT OF THE INTERIOR

General Land Office

Washington

April 5, 1912.

I hereby certify that the annexed copy of office letter dated April 5, 1904, is a true and literal exemplification from the record of said letter in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of this of-
fice to be affixed, at the city of Washington, on the
day and year above written.

H. W. Sanford,

Recorder of the General Land Office. [1239]

56802-1904-N.

WHP

DEPARTMENT OF THE INTERIOR

E.C.F.

General Land Office.

Washington, D. C., April 5, 1904.

Address only the
Commissioner of the General
Land Office

Register and Receiver,
Visalia, California.

Sirs:

By letter of December 10, 1903, a special agent of this office was directed to submit report based upon examinations heretofore made by him, his general knowledge of the lands and familiarity with the country generally, as to whether in his opinion there is any necessity for the continuance of the suspen-

sion of lands in your district suspended by this office in February 1900 on account of their alleged oil character.

I am now in receipt of the agent's report to the effect that certain of the lands so suspended are being developed for their deposits of mineral and that numerous oil wells have been sunk which have proved to be good producers of mineral. Other townships and portions of townships have not been developed at all for wells that have been sunk have proved to be barren. The lands upon which he states active mineral development is in progress will be allowed to continue suspended but as to the following tracts where no mineral has been discovered it is believed that no good reason exists for further suspension.

Accordingly, the lands hereinafter described are hereby [1240] relieved from suspension.

Sections 25 and 36 inclusive, T. 27 S. R. 27 E., M.
D. M.

Sections 11, 12, 13, 14 23, 26 and 35, T. 28 S., R. 27
E. M. D. M.

Sections 1 to 18, inclusive, T. 28 S., R. 28 E., M.
D. M.

All of T. 29 S., R. 20 E. M.D.M.

All of T. 29 S., R. 21 E. M.D.M.

All of T. 29 S., R. 22 E. M.D.M.

All of T. 30 S., R. 21 E., M.D.M. except S $\frac{1}{2}$ Sec. 11,
Secs. 12, 13.

All of T. 30 S., R. 22 E., M.D.M. except sections 6,
7, 18, 19, 20, 27, E $\frac{1}{2}$ 29, and 34.

All of T. 30 S., R. 23 E. M.D.M.

All of T. 31 S., R. 22 E. M.D.M.

All of T. 31 S., R. 23 E., M.D.M.

All of T. 31 S., R. 24 E. M.D.M.

All of T. 31 S., R. 25 E. M.D.M.

Sections 1, 2, 3, 4, 7, 10, 11, 12, 13, 14, 16, 18, 19, 20,
24, 28, 29, 30, 31, 32, 33, 34, 35 and 36, T. 32 S., R.
23 E., M.D.M.

All of T. 32 S., R. 24 E. M.D.M., except sections
30, 31 and 32.

All of T. 32 S., R. 25 E., M.D.M.

Make the proper notations upon the records of
your office.

Very respectfully,

J. T. Macey,

Acting Commissioner.

WPW 2.

The document last referred to, offered in evidence and read into the record, is marked Plaintiff's Exhibit "4-C".

Mr. Mills—I now offer in evidence a certified copy, [1241] exemplified under the seal of the General Land Office, of an affidavit signed by Charles W. Eberlein, dated June 20, 1904. In that connection I desire to state that there is another affidavit, which we are searching for, signed by Mr. Eberlein, in respect to the same land; and when we find it, we will have it certified and introduce it.

I will now read into the record the affidavit last referred to, and ask that the same be marked Plaintiff's Exhibit "4 D", as follows:

Mr. Lewers—Isn't there any correspondence that goes with this that you have?

Mr. Mills—I haven't any. The papers in the General Land Office as of the date that this was written were done up in bunches and boxes.

Mr. Hoehling—And some of them might have been destroyed.

Mr. Mills—I am informed that when Mr. Ballinger came in he revised the filing system, and that some of them filed since 1907 I can get in a minute. Some of these, prior to that date, we cannot find at all. After an accumulation of a vast amount of correspondence, when the cases were apparently closed, they sometimes burned and destroyed the papers.

Mr. Lewers—I object to the introduction of this exhibit, the certified copy of this affidavit, on the ground that it is not the original.

Mr. Mills—Then I will state that I will introduce the original, if we can withdraw it, and substitute the certified copy. [1242]

Mr. Lewers—And on the further ground that its production is not in any way accounted for. So far as it at present appears, it is purely a fugitive document.

Mr. Mills—I will now read into the record the affidavit last referred to as follows:

B PLAINTIFF'S EXHIBIT 4-D

DEPARTMENT OF THE INTERIOR

General Land Office

Washington

June 26, 1912.

I hereby certify that the annexed copy of affidavit of Charles W. Eberlein, is a true and literal exemplification of the original paper on file in this office.

IN TESTIMONY WHEREOF I have hereunto
subscribed my name and caused the seal of this office
to be affixed, at the city of Washington, on the day
and year above written.

H. W. SANFORD.

Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE)

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO. } ss.

Charles W. Eberlein, being duly sworn, deposes and says that he is the Acting Land Agent of the Southern Pacific [1243] Railroad Company, that the lands selected by the Southern Pacific Railroad Company for patent in its Visalia Indemnity Limits List No. 89, have been carefully examined by the agents and employees of said Company as to their mineral or agricultural character, and that, to the best of his knowledge and belief, none of the lands returned in said List No. 89 are mineral lands.

Charles W. Eberlain.

Subscribed and sworn to before me this 20th day
of June, 1904.

E. B. Ryan,
Notary Public in and for the City and County of
San Francisco, State of California.

(Endorsement on back.)

U. S. GENERAL LAND OFFICE

RECEIVED JUL. 20, 1904

129481.

The document last referred to, offered in evidence
and read into the record, is marked Plaintiff's Ex-
hibit "4-D."

Mr. Mills—I now offer in evidence a certified copy
exemplified under the seal of the General Land Office,
of a letter dated July 14, 1904, addressed to the Com-
missioner, and signed by George W. Stewart, reg-
ister, and ask that the same be marked Plaintiff's
Exhibit "4-E," and I will read it into the record as
follows: [1244]

PLAINTIFF'S EXHIBIT 4-E.

B

4-207r.

M E L DEPARTMENT OF THE INTERIOR

General Land Office

Washington

June 26, 1912.

I hereby certify that the annexed copy of letter
dated July 14, 1904, is a true and literal exemplifica-
tion of the original on file in this office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

H. W. Sanford,
Recorder of the General Land Office.

(SEAL OF THE GENERAL
LAND OFFICE)

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

Visalia, Cal., July 14, 1904.

Hon. Commissioner General Land Office,
Washington, D. C.

Sir:

Your letter "N" of February 20, 1904, returned for acceptance selection list No. 89 of the Southern Pacific Company. Said list was accepted February 26, 1904. As the land embraced therein is in the vicinity of mining claims [1245] we required said Company to have publication of same made. We have received proof of publication and payment of costs thereof and non-mineral affidavit. Said papers and Register's certificate of posting notice in office are transmitted herewith.

No contests, protests or objections have been filed in this office.

Very respectfully,
Geo. W. Stewart,
Register.

(Endorsed on back.)

34/59 U. S. GENERAL LAND OFFICE
RECEIVED JUL. 20, 1904. 129481.

UNITED STATES LAND OFFICE, Visalia,
Cal., July 14, 1904. Register transmits S. R. R. R.
Co.'s Selection list No. 89 in.....of.....July
21/04 refd to Div F ECT HGP involving the
.....of Sec.....

No ans. rec'd. CAS files FCN

Tp.....R.....Reference is had
to letter "N" of (E.C.A.) of Feb'y 20 1902. 56/39.

Aug. 4, 1904 to R & R returning list 89 with in-
structions D. A. Chambers advised. Wood.

The letter last referred to, offered in evidence, and
read into the record, is marked Plaintiff's Exhibit
"4E."

Mr. Lewers—In determining whether we have any
objection to this last offer, we desire to inquire
whether you have the original, or a certified copy, of
the enclosures referred to herein and if you intend
to offer those in evidence. [1246]

Mr. Mills—I haven't them in my possession, and
I don't know whether they are existing now in the
Land Office; but I will make some inquiry about them.
Perhaps I do have them.

Mr. Hoehling—Proofs of publication, payment of
costs, and affidavits. Will you put them in?

Mr. Mills—I may, if you want me to. It is not part
of my case.

Mr. Lewers—We should like to have them. If we
are sure those will be introduced, we have no objec-

tion; but if they are not, we object to the introduction of this on the ground that it is incomplete, as it refers to certain proofs of publication accompanying the same which are not attached to the exhibit.

Mr. Mills—Let it be marked subject to the objection.

Mr. Mills—I now offer in evidence a certified copy, exemplified under the seal of the General Land Office, of list No. 110, Southern Pacific Railroad lands, indemnity limits, and ask that it be marked as Plaintiff's Exhibit "4 F".

The document last referred to and offered in evidence is marked Plaintiff's Exhibit "4 F."

Mr. Mills—I now offer in evidence a certified copy, exemplified under the seal of the General Land Office, of Patent 135, and ask that the same be marked Plaintiff's Exhibit "4 G."

The document last referred to and offered in evidence was marked Plaintiff's Exhibit "4 C."

Whereupon an adjournment was taken until two o'clock p.m., August 2, 1912, at the same place. [1247]

Mr. Lewers—Mr. Examiner, I am just in receipt of the letter written by Charles W. Eberlein to D. A. Chambers, under date of December 10, 1903, being the letter recently demanded by Mr. Mills; and I now offer it in evidence. In offering this, we do not desire to be taken as waiving any right to claim privilege, or privileged communication, in connection with any other correspondence either in this or in any of the other cases affecting the alleged oil lands in Cali-

fornia, and this is offered at this time because of the fact that it is part of the correspondence which was introduced in evidence in Washington in August of last year.

Mr. Mills—No objection.

Mr. Lewers—I ask that the letter referred to be read into the record as follows: [1248]

“(6-15-03-2M) Ansd Dec 16 SC. 19 B

Telephone Main 1722 LAND DEPARTMENT

Note—Be careful in

OF THE

writing about land,

to describe it par-

SOUTHERN PACIFIC

ticularly by section

RAILROAD COMPANY.

or parts of section,

township and range.

Room 67, Wells Fargo & Co.

Express Building, Cor. Sec-

Dictated.

ond and Mission Streets.

San Francisco, California, December 10, 1903.

Subject: Visalia Main Line Indemnity List No. 89.

Mr. D. A. Chambers,

McGill Building, 908 G. St., N. W.,

Washington, D. C.

Dear Sir:—

Referring to our correspondence in regard to this matter, I beg to say that under date of December 9th, Mr. Wm. F. Herrin advises me that *he* has taken an appeal from the Register and Receiver's rejection of Main Line Indemnity List No. 89, recently filed, and that a copy of his appeal has been forwarded to you.

In this letter, evidently written by Mr. Singer, occasion is taken to criticize somewhat the proceeding of this department. The following appears in his letter:

‘The best course, it seems to me, was to accompany the selection list with affidavits setting forth that the lands are vacant and unappropriated non-mineral lands, and asking that the order of suspension be released. Such affidavits and petition would, I believe, have procured a hearing to be ordered, and if sustained should entitle our list to *nunc protunc* filing but if not, still our list [1249] would be ordered filed simultaneously with the release of suspension; and pendency of our selection would cut off intermediate settlement.’

It is possible that Mr. Herrin has written you in the same tenor, when sending you copy of the appeal.

This is a matter of practice, as to which I am willing to act under advice.

It seems to me, however, that the first and most necessary step to take was to file our list, as advised by you.

We, of course, knew of the suspension, and if there is any virtue in the filing of an affidavit I don't see why it cannot be done now as well as at the time of the filing of the list.

Will you give me the benefit of your advice, as to what is best to be done.

I am particularly anxious in regard to this list as the lands adjoin the oil territory, and Mr. Kruttschnitt is very solicitous in regard to it.

I have had in mind the suggestion you made some-time ago in regard to inducing Mr. E. C. Ryan, Special Agent at Los Angeles, to make his report.

I am not acquainted with Mr. Ryan, and it is a matter for serious consideration as how to approach him.

It would not do, certainly, to ask for a report recommending the release of the lands selected by us, from suspension. In my opinion it would not be politic to ask for a release in any particular district.

Mr. Ryan would, in all probability, jump at the [1250] conclusion that the railroad had some special information in regard to that district, and the result would probably be that our request would have the opposite effect from that desired.

All that I could do would be in a general way to ask him to submit a report of the lands covered by the order of suspension, which, as you know, embraces a very large area.

How would it do to ask the Department to suggest to Mr. Ryan that he make a report of so much of the lands within the suspension limits as he has examined up to this time.

It might be that such a report would cover the very district in which we are operating, and we would then be relieved from the danger of having called particular attention to any locality.

There is a point of land office practice as to which I would like your opinion.

Since succeeding Mr. Madden, two lists have been filed by this department and rejected. In both cases,

following out what appears to have been the rule in this department heretofore, I have written to the Law Department, stating the facts of filing, rejection, etc., and asked that a proper appeal be drawn and sent to me for execution and filing.

In both cases the Law Department has not only drawn but has perfected the appeal and filed it without reference to this department.

I do not know that there is any point involved, and the only reason that I am asking for your opinion is [1251] that heretofore I find, by reference to our office files, the appeal has been drawn in the Law Department and signed by the Land Agent, and by him forwarded to the Register and Receiver for filing. It is merely a question of what is the proper procedure.

I presume the General Land Office has its own ideas as to what officer should make the appeal, and I do not wish to vary the practice in such a manner as to confuse the Department, and hereafter lead to complications which might be very annoying.

Yours very truly,

Charles W. Eberlein,
Acting Land Agent."

The letter last referred to and read into the record, is introduced in evidence and marked "Defendants' Exhibit No. 199-LL." [1252]

EDWARD C. FINNEY,

Witness called on behalf of the Plaintiff.

August 2, 1912.

Direct Examination:

I am assistant attorney, in the office of the assistant attorney general, and reside at Washington, D. C.; I was appointed clerk in the General Land Office September 1st, 1894, and served eleven years as a clerk and examiner in the Mineral Division of said office, known as Division N; correspondence from that department bears the letter "N," which no other department uses; for the next three years I served as a member of the board of [1253] law review in the same office, reviewing letters and decisions prepared by the mineral division for the signature of the Commissioner; in 1909 I became assistant to the secretary of the interior, and served for one year; then chief law officer of the reclamation service, until May 1, 1911, when I resigned and entered the practice of law at Washington; November 1, 1911, I re-entered the service as an assistant attorney general, in the Interior Department; I became very familiar with the practice of the land department; at the date of Plaintiff's Exhibit QQQ, telegram from the Commissioner to the register and receiver at Visalia, suspending certain land, on February 28, 1900, I was in the land office, mineral division; I remember the circumstances under which that suspension was ordered; in the latter part of 1899 and in 1900, prior to the date of this telegram of February 28th, 1900, there were received in the general land office various letters and petitions from people in California who alleged that they were interested in the exploration for and exploitation of petroleum and other mineral oils; these

letters which I read, with which I was at that time familiar, represented that unless the lands were suspended from agricultural disposition and the various forms of forest lieu selection scrip, railroad selections, and other non-mineral filings, patents would be obtained thereto under the agricultural laws without affording sufficient time to make adequate explorations for minerals, and the Commissioner was asked to suspend the lands from disposition for a reasonable time, so that explorations might be made on the areas alleged to contain oil.

The effect given Exhibit QQQ by myself and other employees of the general land office, was it suspended from all disposition the lands described, and that no filings or selections of any kind could be properly received during its pendency, that no mineral entry for petroleum could be made, [1254] and non-mineral; the letter from D. A. Chambers, attorney for the Southern Pacific Railroad company, Plaintiff's Exhibit VVV, complaining that the company was deprived from selecting certain lands because of this suspension, was received in the Mineral Division, and assigned to me for action, by reference to the Division "P"; reference is therein made to a previous letter of October 7, 1903; the last letter mentioned, Exhibit TTT, dated October 7, 1903, I received in this manner in October, 1903,—or one similar, presumably the original of this copy; I prepared a reply which was signed by the Commissioner, and sent to Mr. Chambers.

On receipt of these letters in Division N, particu-

larly the last one, of November 30, 1903, I went to the Chief of Division P, in charge of the field force, and asked for the name and address of a special agent to make a field investigation of the lands included in the orders of suspension in California, with a view to obtaining information upon which the General Land Office might determine the advisability of either continuing or revoking the suspension orders; the only intention at that time was to determine whether the suspension should be lifted or not; it was my purpose, if the special agent's report so warranted, to prepare for the approval of the Commissioner a letter restoring the lands to general and appropriate disposition, and entry, selection and filing under the law applicable to them; if the report showed good reasons for continuing the suspension order, it was my intention to prepare letters denying the request of the attorney for the railroad company and advising the register and receiver that the suspension would be continued; so far as I know no action was taken to adjudicate the character of the lands involved in this suit during the years 1903 and 1904; I was thoroughly acquainted with the practice in this special tribunal known as the Interior Department, and know that special agents' [1255] reports were not made the bases for adjudicating the character of lands; they made field investigations and submitted information to the Commissioner, which the latter might regard or disregard, or use for ordering further investigation, or hearings, in contested cases or

in cases of applications to enter the lands examined under any land law.

During the entire period of my service, from 1894 to 1909, the Land Office adjudicated *ex parte* cases, selections or entries, upon affidavits and other proofs submitted by the entrymen or selectors in accordance with the law or regulations governing that particular class of cases. In cases contested by other individuals or corporations, or by the Government, it was the practice to order hearings or trials, at which the testimony of witnesses might be taken, reduced to writing, and thereafter passed upon by the Land Department.

Q. Now, in a case in which there was no evidence adduced either for or against an application for selection of lands, but in which the investigation was limited by the Government to its own policy touching the disposition of the land, could there possibly be any adjudication of the character which would be binding or conclusive on the Government, according to the practice as you understood it?

A. In such a case, the General Land Office, in acting upon the selection or entry, would not base that action upon the agent's report, but would base its action upon the entry or selection and the accompanying proofs, that is, the proofs submitted by the entryman or selector in support of his filing.

Plaintiff's Exhibit UUU, a copy of a letter from J. H. Fimple, the Assistant Commissioner to E. C. Ryan, special agent, appears to be a certified copy of a letter which I prepared in October, 1903, and signed

by him on the 23rd; it describes the southeast quarter of section 23, the southwest quarter of section [1256] 25, southwest quarter of section 27, township 32 S. R. 25 E., M.D.M., and the southwest quarter of section 1, T. 30 S., R. 23 E., which are also described in Plaintiff's Exhibit TTT, dated October 7, 1903. That letter was written to Mr. Ryan in pursuance of some action taken upon the letter of Mr. Chambers, known as Government Exhibit "TTT". Reading the portion which you request which states what action would be taken by him in reference to those lands, it is as follows:

"It is alleged by the railroad company that the tracts above described are in fact non-mineral in character. You are therefore directed in the regular order of business to proceed to and examine the lands in question and thereafter submit report to this office stating whether or not in your opinion the same should be released from suspension. When making report please refer to quasi-contest 1997 and 1998."

Plaintiff's Exhibit WWW, a certified copy of a letter written to Mr. Ryan December 10, 1903, includes the lands which are described in TTT, and constituted the action to be taken by Mr. Ryan in respect to the examination of lands in this suit, in 30-23, as well as other lands. It related to the lands just described, as well as to other lands in California. Other lands covered by the orders of suspension of February 21 and 28, 1900. My recollection is that the orders of February 21, and February 28, 1900,

covered separate and different tracts of land. The last paragraph of Plaintiff's Exhibit WWW reads:

"This office has no available force from which to assign you assistants at the present time. With this condition of affairs in view, you will make report based upon examinations heretofore made. Your knowledge of the lands remaining to be examined and familiarity with the country generally, as to whether, in your opinion, there is any necessity for the continuance of the suspension of the lands in the Visalia, San Francisco and Los Angeles districts suspended by this office in 1900 and not reported upon, a list of which you have."

A large area had been suspended, and Mr. Ryan had been furnished with a list by the office, in 1900; I realized personally, and it was the general understanding and knowledge of the officials of the Land Office, that it would be physically impossible for one special agent to make a thorough and minute examination of [1257] each of the subdivisions of the lands withdrawn, within the time and with the money and the equipment he was allowed. My purpose, and that adopted by the Commissioner when he approved the letters directing the examination to be made, was to obtain general information, derived from a general examination of the lands and from whatever knowledge Mr. Ryan might be able to acquire or had already acquired. The Commissioner could not, and did not attempt, under the practice then prevailing, to adjudicate the character of lands upon a special

agent's investigation and report. Our purpose, and his purpose, was to obtain general information to guide him in restoring the lands to general disposition, so that desert land claimants, forest lieu selectors, mineral claimants, or any other qualified citizens or corporations might apply to select or enter the land under the applicable laws, upon submitting the proof of the character required by the law and regulations. There was no attempt to adjudicate the character of any particular tract of land in any of these letters which I prepared or with which I had to deal at this time. There was no attempt to send a person with special scientific qualifications to determine the character of the lands; after a report would be received, I personally examined some selections and entries made within former withdrawn areas, after revocation of these suspension, and I know it was the practice and requirement of the Land Office that such entries and selections should be accompanied and supported by usual proofs as to the character of land and compliance with the law; the revocation of a suspension was regarded and treated as a restoration to the former status.

Under the practice and rulings of the General Land Office then and now in force, a list of selections tendered when the lands are withdrawn would be regarded as vesting no right in the applicant for listing, and an appeal from the rejection would be treated simply as entitling the appellant to a decision as to [1258] the correctness of the action of the register and receiver; the numbers given to lists of selections are

simply for the convenience of the Land Office and the parties. Under the practice of the General Land Office, the filing of a new and separate selection list for the same lands, accompanied by new proofs, would be regarded as a waiver of the original filing or selection, and a substitution of the new selection therefor could be effective only from the filing of the latter selection;

Q. By Mr. Mills—Now, I am advised from the evidence already introduced in this cause that the list which this railroad company, the Southern Pacific Railroad Company, did file on February 26, 1904, was objected to by the Department because of some error in assigning base lands by wrong subdivisions, or something of that sort, and subsequently the new list was a corrected list in some way and assigned these lands by subdivisions. What effect, generally, would that have upon the list for which the new list was filed?—I think Mr. Stone testified that there was a mistake in assigning base lands for the list of February 26th.

Mr. Hoehling—And they were changed and a new list filed substituting these bases.

Q. By Mr. Mills—What effect would the amendment offered by Mr. Hoehling have?

A. Under the practice of the General Land Office, then and now, as I know it and understand it, the selection would be only effective from the time that a proper base was assigned for the tract selected as indemnity.

Q. Now, the selection list on which the patent was based in this case was dated September 6, 1904, and accepted by the register and receiver on September 12, 1904. The list was approved in the General Land Office and patent issued on December 12, 1904, which would be exactly three months later. Now on [1259] what list would that patent be based, assuming two lists previous to that had been made and filed by the railroad company upon the same lands?

A. The practice of the General Land Office was to make out, from the original selection list tendered, what is known as a clear list, which list would be submitted to the Department for approval and which would bear a different number from the selection list filed. That clear list should, under the practice, have been based, however, upon the selection list tendered by the company at a time when the selected lands were open and subject to selection and upon a list which was accompanied by a proper designation of bases for the indemnity sought.

Plaintiff's Exhibit 4 F is what is designated in the Land Department as an approved clear list of railroad selections; it is numbered 110 Southern Pacific Railroad lands, indemnity limits, Visalia Land District, California, the "110" is an office number given for the purpose of identifying the lists which have been recommended for approval of the Secretary of the Interior; even had the General Land Office during the year 1904 and subsequent to the order of suspension before it had been revoked, attempted to

adjudicate the character of lands suspended, it would not have relieved the railroad company from furnishing requisite non-mineral proofs in support of their applications or selections; Under the rulings and practice of the Department of the Interior and of the General Land Office, even the adjudication of a tract of land as mineral or non-mineral would not relieve a subsequent applicant, selector or entryman from submitting with his application, entry or selection, appropriate proofs as to the character of the land and other proofs required by the law and regulations to accompany that class of filing, selection or entry; the burden of satisfying the Commissioner of the character of lands, rests upon the applicant, entryman or selector. [1260]

I do not recall positively the time limit after selection for patents to issue, in 1904; but at no time between 1894 and 1909, were such selections taken up immediately and patented; at no time were they acted upon in less than thirty days after their receipt in the General Land Office, and at some time during that period they were required to be held for ninety days prior to action; one of the reasons for that was that actual settlers might file their homestead entry within three months; and it was to accord any other claimants, such as mineral locators, or other persons alleging an interest in or to the land, opportunity to object, not only to railroad selections, but to any filings or entries,—give them opportunity to get their protest or objection in to the General Land Office before patent issued.

Q. At the time that the Commissioner ordered these so-called examinations for the purpose of determining whether the suspensions should be continued or revoked, you may state whether or not, from your recollection, there was a feeling in the Department that the lands had been under suspension some time and there was some anxiety displayed by those in authority to promptly relieve a great many lands unless there had been some real showing in the way of exploration.

A. I know that there was such a feeling in the Department. I personally had noted several instances where railroad selections or the applications of homestead entrymen to enter these lands had been made and rejected by the register and receiver, and felt that if the agent's report disclosed no good reason to the contrary the lands should be restored to general disposition.

Q. As I understand you, the lands were suspended from all forms of disposition?

A. From all forms of disposition. No entry or selection could be allowed during the pendency of the order. [1261]

CROSS-EXAMINATION OF EDWARD C. FINNEY.

The embargo which was placed on these lands in respect to all kinds of entry or selection, and which had been in force during all the years after 1900, gave rise to applications, not only on behalf of the railroad

company to select, but by those who wished to make private entry upon the lands, and it was for that reason that the Department finally concluded that the time had arrived to ask for a report from the special agent; applications had been received for lands included within the orders of withdrawal by homestead applicants as well as by the railroad company.

Speaking of the effect given by the General Land Office to the report of any special agent, in the absence of a contest, and ordinarily on a contest, the Department, in making its decision on an application for land, decided the same upon the proofs submitted by the applicants, giving no weight to the report of the special agent. If, however, the report of the special agent had been to the effect that the lands applied for were in fact mineral, it might result in a rule or order issued by the Land Office for a hearing, at which the agricultural selector or entryman might have an opportunity to offer testimony concerning the character of the land, and the Government to offer testimony in support of the special agent's report, or to determine the true character of the land; in the absence of any report by an agent, or in the presence of a report that the lands were in fact non-mineral, the *exparte* proofs offered by the entryman or selector would be uncontroverted, and the practice of the Land Office at that time was to accept those proofs at their face value; if, however, the agent's report was contrary or opposed to the *exparte* evidence submitted, it might, and probably would, have resulted in the ordering of further investigation

or of a [1262] hearing to determine the character of the land; by "other proofs" I simply meant that after the lands had been restored to disposition, as in this case, the withdrawal orders had been revoked, the lands became just like other lands, similarly situated, subject to application or entry under appropriate laws, and the applicant or selector or entryman would have to submit the ordinary proofs required by the laws and regulations and applicable to that particular kind of filing; in all, or practically all, non-mineral filings one of the proofs required to be submitted is a non-mineral affidavit; other proofs might be evidence of publication of notice of the selection for filing.

The practice at that time required those publications in respect of applications to select lands which lie within six miles of a mineral claim, or in it; according to my recollection that publication was required to run for thirty days; I think it was required to be published in a newspaper within the land district, and I am not sure but that it was within the county; I cannot recall whether at that time it was required to be published in two papers or simply in the paper nearest the land; I don't recall whether in this particular case there was a publication, and whether it was published in two newspapers; I don't know that I passed on the selection list; the object of the publication was presumably to give notice to any persons having mining claims or locations in conflict with the selection or entry, and was designed to give the public information that application or selec-

tion was pending for those lands, and afford an opportunity to file a protest or contest; I do not recall that the publication was made as required, of this particular list 89; I don't recall that I actually acted on this list after it was finally received in the General Land Office and at the time it was submitted for approval; the clear list 110 does not bear my initials or signature; according to the photographic copy here on file, the [1263] action taken in the mineral division was attested by C. A. Hollingsworth, examiner, and H. G. Potter, chief of division, from which I should assume that the examination was made by Miss Hollingsworth.

It is my understanding that substitution of new base is permitted, but that in practice and legal effect the selection becomes a valid selection only from the time that a proper base is submitted; for instance, an intervening adverse claim to the land might defeat any such substitution, under our practice as I understand it.

Q. Is it not a fact that during the earlier administration of these railroad land grants the Department patented thousands of acres of indemnity lands without the furnishing of any bases at the time of the patent, but that the bases were not furnished until some time thereafter, and then furnished in lump, until that practice was changed?

A. I can't answer that question. I don't know whether or not such a practice obtained. According to my best recollection, it did not obtain in 1900.

Mr. Mills—When was that, Mr. Hoehling?

Mr. Hoehling—That was prior to 1903.

Mr. Lewers—Our position is that the assignment of a base is in no way a condition precedent affecting the validity of the patent.

Q. By Mr. Hoehling—Assume that this list 89, in one form or another, was pending for approval from 1903 until December, 1904, when patent issued thereon; is it your idea that the filing by the company, in September, 1904, of a mere substitute and corrected list as to bases merely, the lands selected not having been changed in any particular whatever, was in legal effect an entirely new indemnity selection list as of that later date in such sense as to permit intermediate private entries on the land to cut out the railroad indemnity selection? [1264]

A. It is of course a mere assumption that the list was regularly pending prior to the time of the filing of the new bases. Assuming a case where such a selection list had been regularly pending during that time, but on an insufficient base or upon no base at all, it is my understanding that it would become a valid selection only when a proper and valid base was offered to the Land Department. It is upon that understanding that I have given my opinion as to the legal effect of that situation; the order of suspension of 1900 covered a number of townships in California, and other lands than the lands in suit; I personally prepared for the commissioner's sig-

nature letters directing an investigation of lands other than those in township 30-23;

Q. And were some of those instances prior to the direction that was given in respect of these particular lands?

A. At the present time I cannot undertake to fix the dates when the letters were written or approved—in other words, I am not sure whether this was the first action or not—but I do recall that the action taken was the result of the letters filed there by Mr. Chambers, and also in part due to the fact that we knew of the offer and rejection of railroad selections and of homestead applications for some withdrawn lands.

RE-DIRECT EXAMINATION
OF
EDWARD C. FINNEY.

Both under the practice in 1903 and 1904, and under the law as I understand it, it was necessary that a loss must have occurred within the granted or primary limits before any indemnity selection might be made; I do not know the practice followed by the register and receiver at Visalia, or in California, with respect to whether the railroad could select its own newspaper for publication and deposit its fees. [1265]

RECROSS EXAMINATION
OF
EDWARD C. FINNEY.

The practice is somewhat different under various

laws or kinds of filing, and I am not entirely sure, but I am inclined to think that under the practice with respect to railroad selections the register and receiver were supposed to designate the newspaper for publication. [1266]

EDWIN C. RYAN

Forty-fourth Witness for the Plaintiff. Washington,
D. C. August 5, 1912.

My name is Edwin C. Ryan and I am 47 years old. In 1903 and 904, I was a special agent of the General Land Office and was located at Los Angeles, Cal.

While I was located in California, I received instructions from the Commissioner of the General Land Office to examine some lands that had been suspended from entry under the telegrams of February 21 and 28, 1900. Pursuant to these instructions I examined the lands in suit in Township 30-23, along with other lands.

These instructions were partly in writing and partly oral, the oral instructions being received by me about the last of September, 1903, from Mr. Pollock, who was chief of the field service at that time. He told me that these lands had been suspended for about four years and asked me to make an investigation and an early report on them. I told him that it was impossible for me to go over all the lands without a camp outfit. He said that he did not think he could furnish me with the outfit, but that it was not necessary for me to go over all the lands; that I could drive over part of them just as the crow flies, and

to interview ranchmen, stockmen, as to the locality of oil wells producing oil in paying quantities. He told me to recommend that lands on which I did not find oil wells in paying quantities should be relieved from the suspension.

I visited the Elk Hills in January, 1904. I first went to a point where I could look over the lands and look around for oil wells but did not see any. I did not go on every section of the land on that examination. I may have gotten over four or five of them. I don't know as I did that. But I drove up to this high point. It was very rough land and it was [1267] physically impossible for me to get over all of it, but I went to that place where I could see if there were any oil wells.

I was instructed to examine all of the lands that remained under suspension, which included about twenty-five townships. I made a separate and special report upon the Elk Hills at that time. I hadn't gotten the data on which to base the general report which I made subsequently. My report on the Elk Hills included also a report on some lands in T. 32-25, which were examined on the same trip. I think I spent four or five days in making this examination of the lands in the Elk Hills, and in the other township mentioned. I first went into T. 30-23. The two places are about twenty-five miles apart.

I am not a geologist or mineralogist, and I examined these under the criterion given by Mr. Pollock. I did not make any geological determination of any kind as to their mineral character.

In my report of January 22, 1904, I said in reference to these lands in T. 30-23 and the other lands in 32-25: "I have the honor to report that on January 10, 11, 12, 13 and 14, 1904, I made a careful examination of the lands in question and found no oil seepage, oil springs, surface or other indications of oils, or minerals of any kind that would tend in my opinion to warrant said lands being classed as mineral in character, and I respectfully recommend that they be relieved from suspension."

I said in my report that I made a careful examination of these lands, because I had made a careful examination as to any oil wells that might have been there. That is all, I did not examine the land with reference to oil seepages or oil sands. As I said before, I did not go all over the land and I did not see any. I looked for them but I did not see any along the road over the land that I did go over. So far as I know, there might have been oil seepages or oil sands on those lands that I didn't go [1268] over. I was not instructed to go over every legal sub-division of those lands.

In my general report of March 22, 1904, I included the lands in T. 30-23 along with about twenty-four other townships. I probably got over half the townships in this entire number and interviewed people relative to the oil wells that might be there.

In my report of March 22, 1904, plaintiff's exhibit 4 B, I said: "Township 29 S., Range 20 E. So far as I am able to ascertain, five wells were bored in

Section 36, and one in the northeast quarter of Section 13, in which only a small quantity of oil has been obtained. This does not appear to be a productive territory and in my opinion there is no necessity for the continuance of a suspension of the lands in this township." The reason why I made this recommendation that the suspension be relieved, although I actually found oil being produced in two sections of that township, was because it was not produced in paying quantities, and under the criterion that was given me, I recommended that it be released. I also reported: "From all I can ascertain, four wells were bored in the north half of Section 19, and one in the south half of Section 7, in which a small quantity of oil was obtained. One well was bored in Section 32 and two wells were bored in Section 31, all of which, I am informed, have been abandoned. In my opinion, there is no necessity for the continuance of the suspension of lands in this township." I say the same of this township that I did of the others, that it was not producing in paying quantities. I also reported on Township 30 South, Range 23 East: "No wells have been bored for oil and in my opinion all the lands in this township should be relieved from further suspension." On about fifty per cent of these townships, as I estimated, I recommended that they be relieved from suspension on mere hearsay evidence, as they had been suspended on mere hearsay evidence. Under my instructions, I [1269] interviewed stockmen, cattlemen and anybody that I had a chance to meet along the line, and those lands that

I didn't pass over, I interviewed people with regard to them, and I even interviewed people with regard to the lands that I did pass over.

I never got any instructions either orally or written from the General Land Office to determine specifically the mineral or non-mineral character of these lands.

CROSS EXAMINATION
OF
EDWIN C. RYAN.

I am now a special assistant to the District Indian Agent at Muskogee, Oklahoma, and have been located there nearly five years. I have been connected with the Department of the Interior since the spring of 1899, at which time I was employed as a special agent of the General Land Office and was located at Seattle. I went to Los Angeles in October, 1899, and remained there continuously as a special agent until the fall of 1907. During this time I was over a part of the oil fields. I do not know just when I first went into the oil fields but it may have been in 1900 or 1901, at Bakersfield.

Afterwards I was at McKittrick for a while, passing in and out. This may have been in 1901. I was not in there very frequently but I cannot say very definitely how often. I think I was probably in there a couple of times or more in 1903. I went in there in 1903 to look over these suspended lands. I knew a man in the vicinity of McKittrick by the name of D. W. Maddux, but I cannot say when I became

acquainted with him, though it may have been in 1902. I was also acquainted with Will Maddux, but I cannot remember the names of any other persons I knew in McKittrick. I have no recollection of what I did when I went to McKittrick on the various trips I have referred to. [1270]

I remember receiving the letter of Mr. Fimple, Acting Commissioner of the General Land Office, dated December 10, 1903.

I was located at Los Angeles when I received this letter. Although I had received instructions to examine part of the lands by the Commissioner's letter of October 23, 1903, I did not make any examination until January, 1904. When I made this examination in January, 1904, D. W. Maddux accompanied me. We made our headquarters at McKittrick and were engaged approximately three days in making the examination of the Elk Hills. I cannot say that we were not four days in this examination of the Elk Hills. As I remember, it was about three days. Then I went south to examine the other lands in 32-25, and the time mentioned in my letter is what I consumed in the whole trip.

If my letter of January 22, 1904, states that I made a careful examination of the lands in question in 30-23 and found no oil seepages or springs, surface or other indications of oil or minerals of any kind, I guess it is a fact. The report speaks for itself. I had no reason to make a false report.

My examination was made for the purpose of ascer-

taining if there was any oil wells on there; and I found no oil wells, and hence I made that report. I made that report in accordance with instructions.

I did not say that there were no oil seepages. I said that I found no oil seepages. When I said that I found no oil seepages, I meant that as a fact. And I found no surface or other indications of oil or minerals of any kind. That is what I said in my report, I believe.

When I reported on other things besides the existence of oil wells, it might be that I could have found oil seepages in paying quantities, but I did not find any. I reported on these matters because I did not find oil in paying quantities in those other matters. Possibly I included a report on matters [1271] that were not covered by my oral instructions. The letters of October 23 and December 10, 1903, did not confine my attention to a report on the presence or absence of oil wells merely, but my verbal instructions did. These instructions were given to me as I have said by Mr. Pollock, who was chief of our field service and who is now dead. They were given to me prior to the receipt of these written instructions to make this particular examination.

In making my examination of 30-23, I had a special letter of instructions from the Assistant Commissioner of the General Land Office, Mr. Fimple, who was a superior officer to Mr. Pollock, and this letter was received subsequent to my talk with Mr. Pollock. In making this examination of the Elk Hills I think

I went first on Sec. 29, although I cannot remember exactly. I do not remember where I went the first day, or the second, or third or fourth day. I think that on the first day I drove out there and kind of looked around to find a road that would carry me into the hills. We did not go to the same place every day. I did not get over very much of it because it was too hilly. Finally I found a place where I could look over practically all of the township. There was no development there at that time, that I could see. I don't think that I made any inquiries concerning this land, but Mr. D. W. Maddux who accompanied me may have told me something about it.

I came to Washington a week ago Saturday and since my arrival I have looked over my reports and have discussed the matter with Mr. Mills and with Mr. Flocker.

I am a son of Thomas Ryan who was Assistant Secretary of the Interior under President McKinley. My father is living now and is still in the government service connected with the Interior Department.

I remember making an examination of lands embraced within the withdrawal order prior to January, 1904, which I was [1272] informed by the Commissioner of the General Land Office was being applied for by the Southern Pacific Railroad Company, but I do not remember the description of the land. I think it was in the McKittrick District. I also think I made an examination of some land in T. 1 South, R. 20 West, San Bernardino Meridian sometime in 1903. This examination covered four or five other town-

ships and it took me ten days or two weeks to make it. In making this examination I searched for oil seepages, oil springs and surface indications of oil or minerals of other kinds. I made a report on this township but did not keep a copy of it.

It was my purpose to make correct reports of my observations and I had no reason for doing otherwise in any case. I don't believe I would know a gas blow-out if I would see it.

REDIRECT EXAMINATION
OF
EDWIN C. RYAN

If on Township 30 South, Range 23 East, I had found oil springs which were not producing oil in paying quantities, oil seepages which were not producing oil in paying quantities, and oil wells there which were not producing oil in paying quantities, I think I would have used the same language in my report on that township, as I found no oil wells nor seepages of oil in paying quantities, and that was my criterion, and I think I would probably have used the same language in the report. It would have been a question with me of finding oil wells, oil springs, or oil seepages producing oil in paying quantities before I would have classified that land as mineral. As I stated before, my criterion was oil in paying quantities. I made no extensive examination of the lands; I did not go over very much of the land. I just looked along the road, as my instructions did not require me to make a thorough and minute investigation of the land. In my report of March 22, 1904, I got most of

my data [1273] from a map. The language used by me in these reports, namely: "Oil seepages, oil wells, oil springs and surface indications which would tend, in my opinion, to warrant lands being classified or not classified as mineral lands," was a kind of stereotyped form that I used. I find it running through all my reports.

RECROSS-EXAMINATION
OF
EDWIN C. RYAN.

I think probably I used that as a kind of stereotyped form. In my report of March 22nd I was making a general report, and did not think it necessary to use that form. In my report of March 22nd I discussed at length the presence or absence of wells, and in doing that I was following the letter of instructions from Mr. Pollock as I understood them, but did not use the stereotyped form that I was accustomed to use. I understood definitely from Mr. Pollock that the only thing I was to report on was whether or not I found oil in paying quantities, and that is all I was looking for.

The mere fact that in my general report of January 22, on the lands including these involved in this suit I did not mention wells or "oil in paying quantities" at all, was just an omission, I guess. I should have mentioned wells.

My instructions I think will state what I was to do. They are in evidence, aren't they?

In making the examination of 30-23 I had a special

letter of instructions from the Special Commissioner of the General Land Office,—Mr. Fimple; and I think in that same letter there were other lands included. Mr. Fimple was a superior officer to Mr. Pollock.

During the time I was in California there were a number of special agents of the land department engaged in making an examination of the lands in various portions of the state. Some [1274] of these men were located in Los Angeles as early as 1901 and 1902. We had no general field division when I first went to Los Angeles but it was established, I think, in 1904 with headquarters at Los Angeles and I was put in charge and remained in charge of it until 1907. During this time I probably had four or five men working under me. [1275]

ERWIN W. OWEN, a witness called and sworn on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

I reside at Bakersfield and am the son of the late Josiah Owen. My father died on December 19, 1909. He was a geologist and mineralogist and from 1902 until the time of his death he was employed by the Southern Pacific Company or the Southern Pacific Railroad Company, or by both, in their Geological Department. He was also employed during that same period by the Kern Trading & Oil Company. He was employed by these several companies as a geologist. He was first employed by the Southern Pacific Railroad Company in the latter part of 1898 or the early part of 1899 in Old Mexico. At that time he was

living at Eagle Pass, Texas. He had prosecuted his work as a geologist for thirty-five years before entering the employ of the railroad company and he got his training in the hills, together with what reading he could do. He never took any course in geology. After he entered the employ of the company in Mexico, he went to the state of Oregon prospecting for coal. I don't know which company he was doing the work for, but it was the Southern Pacific interests. After he left Oregon he went to San Francisco, still in their employ. While my father was in the employ of the Southern Pacific Railroad Company or the Southern Pacific Company, I would say from certain papers in my possession, that he reported to Mr. E. T. Dumble, with whom I am acquainted. Mr. Dumble was the Consulting Geologist of the Southern Pacific Company or the Southern Pacific Railroad Company. I know Mr. Dumble's handwriting. I have had correspondence with him. I was appointed administrator of my father's estate, and from his desk at his home in Los Gatos, California, I took possession of certain papers and letters belonging to him and they have been in my possession ever since and they [1276] are in the same condition now as they were when I took them. The following letter, marked plaintiff's exhibit 4H, was amongst those papers, and it reads as follows:

“Southern Pacific Company, E. T. Dumble, Consulting Geologist, Houston, Texas. P. O. Address: 1306 Main Street.

Houston, Texas, Sept. 11th, 1902.

J. Owen, Esq.,

San Francisco, Cal.

Dear Sir:

I wired you this morning to Medford to go to San Francisco at once to confer with Mr. Kruttschnitt about the oil situation in California.

In order that you may have the general geology of the region at hand I send you the enclosed map, section and notes. I think it will save you time to have it at hand.

With best wishes

Yours very truly

E. T. Dumble."

(Counsel for plaintiff here offered typewritten maps and notes which accompanied the above letter and which are marked plaintiff's exhibits 4H-1 and 4H-2, respectively. The notes, exhibit 4H-2, read as follows:

"The Kern river and McKittrick oil fields are different in every particular. The oil at Oil City is in a heavy bed of sand containing more or less clay in irregular masses. This bed seems to underlie the entire region, sloping very gently to the northwest, so that wells may be sunk anywhere within an area of several thousand acres with a certainty of striking oil.

The McKittrick field, however, shows a very sharp anticlinal structure and is confined to a comparatively

narrow line along its crest. I think there can be little doubt that the oils belong to entirely different series of deposits, that at [1277] McKittrick being in older beds than those of oil city.

At time of my visit the Co. had two sets of wells at Oil City. The first group of more than 20 wells is located on the river side of section 3 and the second along the north line of the same section and opposite those of the Imperial Oil Co. on Section 33. Only one well of this group was producing when I was there.

At McKittrick there were 9 wells of which 7 were producing. Another was being bored on Section 15.

From the enclosed map and pencil section you will see the conditions I found there.

In sinking wells the clay appears to exist in large lenses in the coarse granitic sand you will find outcropping on the bank of the river near where first indications were found. I do not remember thickness of oil sand, but it is my understanding that it is not safe to put wells down at the rate of more than one to each acre. That is a pumping well is supposed to drain the sand for 100 feet or more on every side.

Treadwell claims that the pumps in use are a patent of his machinist also that his rotary for pumping oil to tanks is the best possible arrangement.

The fact of the anticlinal structure at McKittrick is clearly shown in a ravine south of the hot springs where the bath house is or was. I went down and looked at it.

I suppose Mr. Kruttschnitt will explain just what

he wants. If not I understand that he wants you to get at the facts regarding the field, the number of wells drilled and drilling, and what it is costing to do the work, what the wells are producing and what they can be made to produce, whether the work is being done right or in a slipshod way and how to better it, and to learn what you can about the general condition of affairs. I suppose he will give you a list of the Companies properties including those they operate themselves and those they have leased to others. If he does [1278] not it will be well to ask for it. I suppose this will all be preliminary to our taking full charge later.

They still have me hustling here, running to one place and another in Texas and Louisiana so I see no likelihood of getting away immediately.

I think you will be able to get all the facts necessary. When you do and make your report, be sure to have it typewritten and keep a carbon copy."

The pencil handwriting on the second sheet of this paper, I think, is the handwriting of Prof. Dumble, and that on the third sheet of the same document, in pencil, is in the handwriting of my father, J. Owen. The papers I refer to consist of three papers marked plaintiff's exhibit 4-I, and are in words and figures as follows, to wit:

LANDS FOR TRANSFER FROM
SOUTHERN PACIFIC RAILROAD COMPANY
TO KERN TRADING & OIL COMPANY

KERN DISTRICT:
Township 29 S., R. 28 E.

N. $\frac{1}{2}$, N. $\frac{1}{2}$ of S. W. $\frac{1}{4}$, and	
N. W. $\frac{1}{4}$ of S. E. $\frac{1}{4}$, Sec. 3	436.56
	acres

McKITTRICK DISTRICT:

Township 30 S., R. 22 E.

Sec. 1.	857.87
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Lots 1, 4, 9 & 10, N.E. $\frac{1}{4}$ Sec. 11	100.36
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Township 30 S., R. 22 E.

Secs. 5, 9, 15, 23, 25, 33	3912.89
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All of Sec. 7 except NW $\frac{1}{4}$ of NW $\frac{1}{4}$	590.15
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N. $\frac{1}{2}$, N. $\frac{1}{2}$ & S.E. $\frac{1}{4}$ of S.E. $\frac{1}{4}$ N $\frac{1}{2}$	
--	--

S.W. $\frac{1}{4}$ W. $\frac{1}{2}$ of S.W. $\frac{1}{4}$ of S.E. $\frac{1}{4}$	540.
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Sec. 17

All of Sec. 21, except W $\frac{1}{2}$ of S.W. $\frac{1}{4}$ &	
--	--

McKittrick town site	300.
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E. $\frac{1}{2}$ & E. $\frac{1}{2}$ & NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 27	440.
--	------

N. $\frac{1}{2}$ & SE. $\frac{1}{4}$ of Sec. 35	480.
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Township 30 S., R. 23 E. Sec. 31.	640.38
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Township 31 S., R. 22 E.,

NE. $\frac{1}{4}$ of Sec. 15	160.
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NE $\frac{1}{4}$ of Sec. 23,	160.
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NE. $\frac{1}{4}$ of Sec. 25	160. [1279]
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Township 31 S., R. 23 E.,

Secs. 5, 7, 9, 15, 21, 23, 25, 27, 29, 33,	
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35	6396.76
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E. $\frac{1}{2}$ of Sec. 17	320.
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NE. 1.4 Sec. 35	160.
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Township 31 S., R. 24 E.

Secs. 31 & 33	1312.
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MIDWAY & SUNSET DISTRICTS:

Township 32 S., R. 23 E.,		
Secs. 1, 3, 11 & 13,	2564.30	
N. $\frac{1}{2}$ of Sec. 5	320.80	
Township 32 S., R. 24 E.,		
Secs. 3, 5, 7, 9, 11, 13, 15, 17, 19, 21,		
23, 25, 27, 29, 33, 35	10240.	
Township 12 N., R. 24 W.		
Lots 1 & 2, Sec. 25	60.	
Township 11 N., R. 24 W.		
NE $\frac{1}{4}$, Sec. 1	159.89	
Township 12 N., R. 23 W.,		
Sec. 29, 31, 33	1400.52	acres
Township 11 N., R. 23 W.		
Sec. 3, 5, 9	1287.70	
N. $\frac{1}{2}$ & SE $\frac{1}{4}$, Sec. 15	480.	

COALINGA DISTRICT:

Township 19 S., R. 15 E.,		
Secs. 1, 3, 5, 11, 13, 23, 25, 31, 33, 35	6400.	acres
(Including leases on Sec. 31)		
Township 20 S., R. 14 E.,		
Secs. 1, 13, 23, and 25		
(Including leases, on each)		
Township 21 S., R. 14 E.,		
S. $\frac{1}{2}$ & NW $\frac{1}{4}$ of NE. $\frac{1}{4}$, NW. $\frac{1}{4}$		
SE. $\frac{1}{4}$, N. $\frac{1}{2}$ & SE $\frac{1}{4}$ of SW. $\frac{1}{4}$	560.	
E. $\frac{1}{2}$ & E. $\frac{1}{2}$ of NW. $\frac{1}{4}$	400.	
Township 20 S., R. 15 E.		
Sec. 1, 3, 5, 7, 17, 29, 33	4573.76	
W. $\frac{1}{2}$ of Sec. 9	320.	

NW. $\frac{1}{4}$ & E. $\frac{1}{2}$ Sec. 19 488.18

W. $\frac{1}{2}$ Sec. 21 320.

N. $\frac{1}{2}$ Sec. 31 328.53

Township 21 S., R. 15 E.

Sec. 3, 5, 17, 19, 21, 27, 29 4661.68

W. $\frac{1}{2}$, Sec. 15 320.

E. $\frac{1}{2}$ of Sec. 23 320.

(In pencil):

Mr. Owen—check this and see if we want
any other land or if we should leave
any of this off.

(Written in ink):

Town. 21 S—Range 14 E. M.D.M.,

West $\frac{1}{2}$ of Sec 1

E $\frac{1}{2}$ “ “ 11 [1280]

All S 13 & 23-27-35

E $\frac{1}{2}$ Sec 25 & E $\frac{1}{2}$ of NW $\frac{1}{4}$

Will add

all of Sec 31-33 & 29 of Town 26 Range 21 E M D M.

(In pencil)

Have examined and approve for lease to K T
& O Co. the above lands with additions noted.

J.

Plaintiff's exhibit 4-J is in the handwriting of my
father, J. Owen, and the following is a copy:

(4-2-02—200M.) 2 T G 9 A

SOUTHERN PACIFIC COMPANY

Sunset Ogden & Shasta Routes.

Rates quoted by this company are for immediate
use unless otherwise stated, and are subject to
change without notice, except the printing and

posting of tariffs when law so provides.

Rates named on commodities in carloads will base on full space or weight loading capacity of car, but not less than minimum carload weight as provided in tariffs load 10 per cent above weight capacity marked on car when space permits.

(pencil)

McKittrick, Mar 25, 1903

Professor E. T. Dumble.

Dear Sir

I took up the investigation of the oil field at McKittrick on Feb. 3d. I failed to see Mr. Treadwell he was away from Bakersfield and Mr. Ott was compelled to be away on act of Sickness in his family So I had no data whatever in regard to the occurrence of the oil here I believe however I have been able to correctly locate the fold or anticline upon which most of the oil wells are located although I have been compelled to modify some of my first impressions. I find that the directions of the fold is not uniform [1281] and that there appears to be a complete system of folds converging toward the principal upraise of the Dist—known as Siera Diablo Range of Montana These later folds are not exactly parallel to the main Range and no two of them are exactly parallel According to Watts (pencil)—Anderson places it in upper Miocene—the McKittrick Oil Horizon belongs to the Middle Neocene formation I find that the McKittrick Horizon does not belong to the same se-

ries as the center of the principal range and as a consequence only follows along the foothills of the main range and terminates at a point Several miles from the Main range although it appears to enter the main Range on the N W The Sharp Anticlinal fold of the McKittrick oil field appears to terminate a short distance S.E. of Templore but another Anticline belonging to Older rocks takes its place and continues on in the Same direction as evidence that these older rocks wer also an older upraise I find the sands and gravels of the McKittrick Horizon largely made up from the debrise from these older hills— These Older rocks dont appear to be Oil bearing they are probably of Cretaceous age The McKittrick series swings around to the N E and follows the low foothills of the Main range The Oil bearing sands diminish in that direction but Oil will probably be found in the Shales it is represented by cepages The termination of the McKittrick Oil Horizon will be found 100 yds North of the Climax wells at Temblor there wells represent the extreme limit at which Oil will be found in that direction but the Oil Horizon swings around to the East about two miles and then continues in a N W direction The Oil of the McKittrick fold terminates about the center of Sec 1 Town 30 S Range 20 E and from this point S E the crest of the fold passes through or near Sec 6-5-4-10-11-13 and 24 Town 30 S- R-21-E thence through Sec 18-19-20-28-27 and 34 Town 30 S R 22-E and terminates south of Sec. 3 Town 31 S R 22 E the last exposure of oil sands is near the center of Sec 3 last mentioned. See

sketches of field in Town plats There is a change in the direction of the strike of [1282] the fold near the center of Sec 34 T 30 S R 21 E from this point it turns due South to the center of Sec 3 as above stated and from the termination of the hills one & 1/2 mile further South the oil Horizon will be represented in the Monocline of the Midway district The accompanying Sheet or map represents the complex nature of the various folds The fold North of the McKittrick and running nearly parallel passes through Sec 5-9 between 11 & 15 through 13 of Town 30 R 22 This fold exposes the oil sands in several places and in some of the exposures the sands are strongly impregnated with Asph and producing wells ought to be found along this exposure the Asphaltum exndes through the overlaying clays in many places I have marked the Sections most favorably located for oil along these different folds—There is but one oil Horizon in this field and below this Horizon there are 1500 feet of white Slate below which the Slates are Non-conformable and probably belong to another Series of Rock—There are several thousand feet of these Slates or Shales they compose the main Diablo Range are tilted up almost vertical and these in turn rest upon Sandstones of great thickness which are exposed above Temblor Rancho but at this place the Shales below the oil Horizon are not seen on the east side of the main upraise but are exposed on the west side- At the East side, North East of Temblor the Oil Horizon rests directly upon these massive sands In the direction of Midway I find that the McKittrick

fold flattens out in the valley but other hills further on in the same direction would indicate that it may expend to near the Kern Lake The Midway Oil sands belong to the Same Horizon as the McKittrick Oil Sands This Horizon only extends into the foothills of Mt. Diablo Range a short distance and from Sec. 6 to Sec. 27 Town. 31, Range 22, the outcrop forms a semi circle along the foothills and are well exposed, forming in many places a chain of low sandy hills that can be distinguished for several miles by their green verdure [1283] and dark color, caused by the sands absorbing more moisture and bearing more vegetation. The following Section was, seen on Sec. 17 commencing at Nonconformity of Series (see on 28) below the oil sands and coming upward to the top of the Oil Horizon—

Section of Oil Sands & Rocks below

White Slate	1500 ft.	
Slate Breccia	6 ft.	6
Coarse white Granite Sand....	50 ft.	50
White Slate	1.25 ft.	125
Hard yellow slate Breccia....	6 ft.	6
White porous loose sand.....	100 ft.	100
White and yellow Slate.....	15 ft.	15
Yellow very loose coarse Sand	30 ft.	30
White Slate	150 ft.	150
White Coarse Sand.....	35 ft.	35
White Slate and yellow Clay	40 ft.	

oil sands		517 ft.
(pencil)		sands

This makes the Oil Sands proper 517 feet thick but they thin out perceptibly in a N West direction and thicken up in a S E direction until at one place there is an exposure of 1000 feet or more and one peculiarity of the thickest beds is that in many places some of the beds are nearly wholly composed of Granite Boulders from small pebbles to one 12 ft. long by 5 by 6 weighing Several tons It is useless to speculate how they got there but it appears incredible that these immense Boulders could have been brought a long distance by water This Sand or the upper beds of it are the sands that furnish the oil at Midway There is but this one oil Horizon in this Series of rocks although near Temblor Oil has been struck in the Slates and the sands of this (Mc K Horizon) appear to thin out in a N W Direction By reference to sketch No. 3 it will be seen that there appears to be some relation between the Strata penetrated in the well of the 1901 Co in Sec 34-T-31-S-Range 22 E The Section accompanying the well Section was taken on Sec 17-T-31 S-R 21 E a distance of nearly or quite 10 miles— None of the sands where they terminate on the mountain side are oil bearing but are a very loose friable sand that will crumble by its own weight I See no reason why these sands should not be found oil [1284] bearing from a mile or so from this outcrop on the mountain side to where the productive wells have been drilled There appears to be an accumulation of something like 2200 feet of sediments above these sands There has been several wells drilled between the 1901 Cos wells and the outcrop of sands mentioned

but from the best data I can obtain none of them entered the Sands nor was any of them drilled deep enough to penetrate them hence their failure to find oil In my opinion this is a splendid field for the investment of Capital but the Investors should understand that they must expect to drill to a depth of 2200 feet or 2500 feet to penetrate the oil sands— At Midway these sands are struck from 1000 to 1200 feet and furnish some good wells Midway is only one mile or a little more from the sand outcrop The Sand outcrop is not exposed west of McKittrick on the Mountain side it appears as though later deposits extended further up the side of the mountain and covered the sands This must represent a gradual sinking of the Surface during the deposition of these rocks I have traced the outcrop of the Oil Horizon all the way to Sunset Oil field and find that there is but the one Oil Sand and I believe it will be possible to trace the same Horizon to the Kern River fields There are several reasons for believing that they all belong to the Same zone

Respectfully

The pencil notations on that exhibit were made by my father, J. Owen. (Witness is now shown a carbon copy of plaintiff's exhibit 4-J.) This carbon copy of plaintiff's exhibit 4-J seems to have been in my father's handwriting. The reading of the first page is about the same. This letter is marked plaintiff's exhibit 4-K. The next to the last sheet of exhibit 4-K is in J. Owen's handwriting, as also is the last sheet. When

my father [1285] was in Texas, I remember that it was his custom, he not being a very good writer, to do his writing in his own handwriting and then have it typewritten. The signature, "J. Owen", on exhibit 4-K is my father's hand-writing. (It was here stipulated by counsel that the yellow sheets which constitute plaintiff's exhibit 4-J are the regular letterheads of the Southern Pacific, the regular form used at that time by the Southern Pacific Company.) I have here, in the handwriting of my father, a certain report entitled "Lands not Oil". It is dated July 6, 1905, and the entire paper is in my father's handwriting. This paper is now marked plaintiff's exhibit 4-L, and is in words and figures as follows:

NOT OIL LANDS

July 6, 1905

The accompanying list of lands have been carefully examined for Oil and Coal and no indication of either has been found upon the Land and there location makes it very probably that they do not contain oil.

Yours truly

J Owen

(Reverse side)

Prob. Oil Lands.

	Sec.	T	R	MDM	Acres
All	17	17S	13E	"	640
"	19	"	"	"	640
"	19	16S	14E	"	639
"	5	25S	17E	"	662.52
Fr. S $\frac{1}{2}$ of NE $\frac{1}{4}$; S $\frac{1}{2}$ of					
Lot 1		"	"	"	

	Sec.	T	R	MDM	Acres
S $\frac{1}{2}$ of Lot 2; Lots 4-5-10		"	"	"	
S $\frac{1}{2}$ of Lot 9; SW $\frac{1}{4}$ of					
SE $\frac{1}{4}$	7	"	"	"	353.05
Lots 6-7-8; N $\frac{1}{2}$ of Lot 9	7	"	"	"	153.15
[1286]					

LANDS EXAMINED AND NOT CONSIDERED
OIL LANDS

	Sec.	T	R	MDM	Acres
" SE $\frac{1}{4}$ & S $\frac{1}{2}$ of SW $\frac{1}{4}$	1	16S	13E	"	240
" NE $\frac{1}{4}$ of SE $\frac{1}{4}$; S $\frac{1}{2}$ of					
SE $\frac{1}{4}$					
" SE $\frac{1}{4}$ of SW $\frac{1}{4}$	9	"	"	"	160
All	11	"	"	"	640
"	13	"	"	"	640
"	15	"	"	"	640
Fr. S $\frac{1}{2}$ of NE $\frac{1}{4}$; NE $\frac{1}{4}$ of					
NE $\frac{1}{4}$	17	"	"	"	120
" SE $\frac{1}{4}$ of NW $\frac{1}{4}$; SE $\frac{1}{4}$;					
SW $\frac{1}{4}$	17	"	"	"	360
All	19	"	"	"	635.20
"	21	"	"	"	640
"	23	"	"	"	640
"	25	"	"	"	640
"	27	"	"	"	640
"	29	"	"	"	640
"	31	"	"	"	639.20
"	35	"	"	"	640
Fr. NE $\frac{1}{4}$ (lots 1-2-6-7)	5	17S	13E	"	198.85
" NW $\frac{1}{4}$; SE $\frac{1}{4}$; SW $\frac{1}{4}$	5	"	"	"	518.95
All	7	(probably a mistake)			269
All "C"	9	17S	13E	MDM	640

	Sec.	T	R	MDM	Acres
Fr. N $\frac{1}{2}$ & SW $\frac{1}{4}$	7	16S	14E	"	478.40
All	9	"	"	"	640
Fr. SW $\frac{1}{4}$	11	"	"	"	160
" NW $\frac{1}{4}$	15	"	"	"	160
" SW $\frac{1}{4}$	15	"	"	"	160
All	19	"	"	"	639
"	21	"	"	"	640
Fr. E $\frac{1}{2}$	23	"	"	"	320
April 5, 1899					
Fr. NW $\frac{1}{4}$ & S $\frac{1}{2}$	27	16S	14E	MDM	480
All	29	"	"	"	640
All	31	"	"	"	640.30
"	33	"	"	"	640
Fr. NE $\frac{1}{4}$; SE $\frac{1}{4}$; & SW $\frac{1}{4}$	35	"	"	"	480
[1287]					
All	1	17S	14E	"	638.62
"	3	"	"	"	673.69
"	5	"	"	"	709.40
"	7	"	"	"	642.12
"	9	"	"	"	640
"	11	"	"	"	640
"	13	"	"	"	640
"	15	"	"	"	640
"	17	"	"	"	640
"	21	"	"	"	640
Fr. N $\frac{1}{2}$; N $\frac{1}{2}$ of SW $\frac{1}{4}$	23	"	"	"	400
" S $\frac{1}{2}$ of SW $\frac{1}{4}$; SE $\frac{1}{4}$	23	"	"	"	240
All	25	"	"	"	640
"	27	"	"	"	640

April 5, 1899

	Sec.	T	R	MDM	Acres
Fr. NW $\frac{1}{4}$	1	25S	17E	MDM	158.73
Fr. SE $\frac{1}{4}$ & SW $\frac{1}{4}$	9	"	"	"	320
" NW $\frac{1}{4}$; W $\frac{1}{2}$ of SW $\frac{1}{4}$;					
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	11	"	"	"	280
S $\frac{1}{2}$ of SE $\frac{1}{4}$; SE $\frac{1}{4}$ of					
SW $\frac{1}{4}$	11	"	"	"	120
SE $\frac{1}{4}$	13	"	"	"	160
NW $\frac{1}{4}$	13	"	"	"	160
All	15				640
Fr. NE $\frac{1}{4}$ & SW $\frac{1}{4}$					
All	5	"	"	"	662.52
Fr. S $\frac{1}{2}$ of NE $\frac{1}{4}$; S $\frac{1}{2}$ Lot 1		"	"	"	
Fr. S $\frac{1}{2}$ of Lot 2; Lots 4-5-10		"	"	"	
Fr. S $\frac{1}{2}$ of Lot 9; SW $\frac{1}{4}$ of					
SE $\frac{1}{4}$	7	"	"	"	353.05
Fr. Lots 6-7-8; N $\frac{1}{2}$ of Lot 9	7	"	"	"	153.15
" SE $\frac{1}{4}$ & SW $\frac{1}{4}$	9	"	"	"	320
" NW $\frac{1}{4}$; W $\frac{1}{2}$ of SW $\frac{1}{4}$;					
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	11	"	"	"	280
S $\frac{1}{2}$ of SE $\frac{1}{4}$; SE $\frac{1}{4}$ of					
SW $\frac{1}{4}$	11	"	"	"	120
SE $\frac{1}{4}$	13	"	"	"	160
NW $\frac{1}{4}$	13	"	"	"	160
All	15	"	"	"	640
Fr. NE $\frac{1}{4}$ of SW $\frac{1}{4}$	17	"	"	"	40
Fr. N $\frac{1}{2}$ of SE $\frac{1}{4}$; S $\frac{1}{2}$ of					
NE $\frac{1}{4}$	17	"	"	"	160
" W $\frac{1}{2}$ of NW $\frac{1}{4}$; NW $\frac{1}{4}$ of					
SW $\frac{1}{4}$	17	"	"	"	120
NE $\frac{1}{4}$; SE $\frac{1}{4}$; Lots 1-2-					

	Sec.	T	R	MDM Acres
9-10	19	"	"	640
Lots 7; S $\frac{1}{2}$ of Lot 8	19	"	"	56.80
All	21	"	"	640
Fr. NE $\frac{1}{4}$; NW $\frac{1}{4}$; NW $\frac{1}{4}$ of				
SW $\frac{1}{4}$	23	"	"	360
" NW $\frac{1}{4}$ of NW $\frac{1}{4}$	27	"	"	40
" N $\frac{1}{2}$	29	"	"	320
" S $\frac{1}{2}$ Lot 2 Lots 4-5-7	31	"	"	182.35
" Lot 1; N $\frac{1}{2}$ of Lot 2 Lot				
3 & 5				
" NW $\frac{1}{4}$ of SE $\frac{1}{4}$	31	"	"	257.49
" NE $\frac{1}{4}$	1	24S	18E	161.21
" NW $\frac{1}{4}$	1	"	"	163.78
SE $\frac{1}{4}$	1	"	"	160
" SW $\frac{1}{4}$	1	"	"	160
All	9	25	18	640
				[1288]
All	1	31S	24E	640
"	3	"	"	640
"	5	"	"	640
"	9	"	"	640
"	11	"	"	640
All	23	"	"	640
"	29	"	"	640
"	35	"	"	640

(Reverse side)

86.40
100

	4480
864000	500
	2,240.000

Not Oil Lands

* * *

Witness now produced certain schedule of lands, together with a letter from Mr. Owen to Mr. Dumble dated July 6, 1905, entitled "Oil Lands and Probable Oil Lands", which is received in evidence and marked plaintiff's exhibit 4-M, and is in words and figures as follows:

OIL LANDS

July 16th 1905

Professor E. T. Dumble

Dear Sir:

I transmit herewith report on S P Lands, beginning with Town 16 S Range 13 E M. D. M. and including all lands not previously reported as far south as and including Town 25 S Range 18 E M. D. M. in accordance with plan adopted in previous reports I have included all sections where parts of sections are considered Oil land and the rest doubtful

Yours truly

J OWEN [1289]

PROBABLE OIL LANDS

	Sec.	T	R	MDM	Acres
All	17	17S	13E	"	640
"	19	17S	13E	"	639
"	23	22S	15E	"	640
" E $\frac{1}{2}$	17	22S	15E	"	520
"	21	"	"	"	640
Fr. NE $\frac{1}{4}$ of	5	24S	18E	"	177.89
(In Pencil) W $\frac{1}{2}$ of SE $\frac{1}{4}$..	24	17		80

	Sec.	T	R	MDM Acres
Fr. SE $\frac{1}{4}$; SW $\frac{1}{4}$ of NW $\frac{1}{4}$; SE $\frac{1}{4}$ of SW $\frac{1}{4}$; W $\frac{1}{2}$ of SW $\frac{1}{4}$	5	"	"	320
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	5	"	"	40
" NE $\frac{1}{4}$; NW $\frac{1}{4}$; E $\frac{1}{2}$ of SE $\frac{1}{4}$				
Fr. W $\frac{1}{2}$ of SW $\frac{1}{4}$	7	"	"	495.52
E $\frac{1}{2}$ of SE $\frac{1}{4}$	7	"	"	80
E $\frac{1}{2}$ of SW $\frac{1}{4}$	7	"	"	80
NE $\frac{1}{4}$ & SW $\frac{1}{4}$	9	"	"	320
SE $\frac{1}{4}$	15	"	"	160
NE $\frac{1}{4}$	17	"	"	160
N $\frac{1}{2}$ of NW $\frac{1}{4}$; SE $\frac{1}{4}$ of NW $\frac{1}{4}$ SE $\frac{1}{4}$; NE $\frac{1}{4}$ of SW $\frac{1}{4}$	17	"	"	320
SW $\frac{1}{4}$ of NE $\frac{1}{4}$; NW $\frac{1}{4}$; NW $\frac{1}{4}$ of SE $\frac{1}{4}$; S $\frac{1}{2}$ of SE $\frac{1}{4}$	21	"	"	320
SW $\frac{1}{4}$	21	"	"	160
SE $\frac{1}{4}$	23	"	"	160
S $\frac{1}{2}$	25	"	"	320
SW $\frac{1}{4}$ of NW $\frac{1}{4}$; NW $\frac{1}{4}$ of SW $\frac{1}{4}$				
S $\frac{1}{2}$ of SW $\frac{1}{4}$	27	"	"	160
E $\frac{1}{2}$ of SE $\frac{1}{4}$; NE $\frac{1}{4}$ of NW $\frac{1}{4}$	27	"	"	120
Fr. SW $\frac{1}{4}$ of —————	29			160
SE $\frac{1}{4}$ —————	31			160
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	35	"	"	40
NW $\frac{1}{4}$ of NE $\frac{1}{4}$; S $\frac{1}{2}$ of				

	Sec.	T	R	MDM	Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$					200
NW $\frac{1}{4}$ of SE $\frac{1}{4}$; N $\frac{1}{2}$ of					
SW $\frac{1}{4}$	35	"	"	"	80
N $\frac{1}{2}$ of NW $\frac{1}{4}$	1	25S	18E	"	79.69
Fr. SW $\frac{1}{4}$	3	25S	18E	"	160
S $\frac{1}{2}$ of NW $\frac{1}{4}$ & NW $\frac{1}{4}$					
of NW $\frac{1}{4}$	11	"	"	"	120
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	11	25S	18E	"	40
Fr. Also NE $\frac{1}{4}$	9	"	"	"	160
N $\frac{1}{2}$ & SE $\frac{1}{4}$	7	31S	24E	"	480
All	27	22S	15E	"	640

(On reverse side, in pencil)

PROBABLE OIL LANDS TOWN 24S RANGE 18E

Sec. 7—NE $\frac{1}{4}$; NW $\frac{1}{4}$; E $\frac{1}{2}$ of SE $\frac{1}{4}$ 495.52 acres

Sec. 7

Sec. 7—W $\frac{1}{2}$ of SE $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$

Sec. 9—T24 SR18E NE $\frac{1}{4}$ and SW $\frac{1}{4}$

Town 24 SR18E Sec. 17 N $\frac{1}{2}$ of NW $\frac{1}{4}$; SE $\frac{1}{4}$ of NW $\frac{1}{4}$
SE $\frac{1}{4}$; NE $\frac{1}{4}$ of SW $\frac{1}{4}$ 320 acres

[1290]

Sec. 21—SW $\frac{1}{4}$ of NE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ 480 acres

Sec. 27—SW $\frac{1}{4}$ of (Balance of line not distinguishable)

S $\frac{1}{2}$ of SW $\frac{1}{4}$ 160 acres

E $\frac{1}{2}$ of SE $\frac{1}{4}$ NE $\frac{1}{4}$ of NW $\frac{1}{4}$ 120 acres

Sec. 35—NE $\frac{1}{4}$ of NE $\frac{1}{4}$; NW $\frac{1}{4}$; W $\frac{1}{2}$ of SW $\frac{1}{4}$; SW $\frac{1}{4}$
of SW $\frac{1}{4}$ 320 acres

NE $\frac{1}{4}$ of NE $\frac{1}{4}$; S $\frac{1}{2}$ of NE $\frac{1}{4}$

NW $\frac{1}{4}$ of SE $\frac{1}{4}$ 160 acres

Town 24S R17E Sec. 1 West $\frac{1}{2}$ of SE $\frac{1}{4}$ 80 acres

Town 25S R18E Sec. 11 NE $\frac{1}{4}$ of SW $\frac{1}{4}$ 40 acres

(A plat of Township 30 South, Range 22 East, is now offered in evidence and marked plaintiff's exhibit 4-N. The hand-writing on this exhibit is identified by this witness as being mostly his father's handwriting.)

The witness here identified letter dated July 20, 1905, addressed to Professor E. T. Dumble, and which is marked plaintiff's exhibit 4-O, and which is in words and figures as follows:

7564

July 20, 1905.

Professor E. T. Dumble,

Consulting Geologist, City.

Dear Sir: I herewith hand you a statement of all productive oil lands divided as first class productive oil lands, second class productive oil lands, and third class oil lands; also, lands designated as first class probable oil lands, and second class probable oil lands.

First class productive oil lands comprise those sections where actual development work has proven the land to be good oil territory. The second class productive lands comprise those sections which adjoin productive sections, and contain the oil horizon with all surface indications as far as can be seen indicating the presence of oil on the land. The third class lands are those in the immediate vicinity of the second [1291] class lands and contain the oil horizons but no development work has been done upon them.

The first class probable oil lands are lands where

the oil horizon has been traced through them or where surface indications give promise of good productive lands. The second class probable oil lands are those sections which contain the horizons of the first class probable lands and adjoin them or are upon an anticline where the indications for oil or asphaltum are found.

In previous reports on oil lands I included all of sections where a part of the section contained oil and the balance was doubtful. In this report I have only included the sections and parts of sections actually upon the oil horizons. Therefore, this report will not exactly correspond to the plats of oil lands given in previous reports.

The total number of acres comprised in all classes of productive and probable oil lands are 91,311 acres with an aggregate value of \$17,326,800.

Yours truly,

OR

CMR

(Witness here identified a letter dated October 9, 1902, from Mr. Owen to Mr. Kruttschnitt, and which is marked plaintiff's exhibit 4-P, and which is in words and figures as follows, to wit:)

Medford, Oregon, Oct. 9th, 1902.

(in pen)

Mr Kruttschnitt

Sir:

At Mr. Worthington's request, I sent a supplement to my report on the Coalinga oil field, giving a sketch of the [1292] out-line of the oil territory

owned by the S. P. Co., and such data as I possess in regard to the topography of the country between Coalinga and the center of the oil district that would give an idea of the feasibility of building a switch or branch line to connect the oil territory with the R. R.

Section 7, Township 20, S. Range 14 East will be as near the center of the oil field as it will be necessary to build a branch. The dotted line (on the plat enclosed) direct from Coalinga to Sec. 7, passes over a very level plain with a slight upgrade of 300 feet from Coalinga to the center of this Section. This represents a diagonal line across four sections.

Little more work will be required, than to surface the road-bed and bridge one or two dry branches. There is an old coal road-bed (now abandoned) graded from Coalinga to section 26-T. 20 S. R. 14 E. (see sketch). This graded road-bed runs for most of the distance through S. P. Co. lands. I dont know who are the owners of it. If the track was re-laid, to near the line of Section 26, then carried across to Section 7, as above mentioned, it would give an out-let for the oil territory on Section 26 and 23 and afford the tenants of the other R. R. lands the same facilities they would obtain if the line was built direct from Coalinga to Section 7. Should a line be built direct from Coalinga to Section 7, it will benefit the tenants on Section 23, but very little. There can be but very little difference in the amount of work on two routes and the

circular route via Section 26, will for most of the distance pass through or contiguous to oil territory, much of which is yet undeveloped.

The shaded Sections on the plat represents the Company's oil lands. The South Eastern extremity of the oil field has not been determined and other Sections besides those colored, may yet be included in the oil territory.

Respectfully,

(In ink) J Owen [1293]

(At this point in the testimony of this witness, the letter marked "Plaintiff's Exhibit 4-Q was identified and received in evidence.)

Q. Have you some reports there on reserved lands included in certain townships?

A. Yes, sir.

Q. Just examine those and state whether you found them in the same condition, attached, as they are now.

A. I did.

Q. Have you examined to see whether Township 30-23 is contained among those papers?

A. I have.

Q. And is it, or not?

A. It is not.

Mr. Mills: Let this be marked, for identification,
4 R.

The report last referred to is marked "Plaintiff's Exhibit 4 R—LL."

Mr. Mills: These appear to be undated, Mr. Lewers, but we offer them in evidence.

Q. By Mr. Lewers: Mr. Owen, do you know when this list was prepared?

A. I do not.

Q. Did you ever see it before the time you found it in your father's papers?

A. I did not.

Q. Was your father anywhere in the vicinity of McKittrick up to the time of his death?

A. Very frequently.

Q. And do you know whether he made any examinations of land [1294] in there in 1907, '08, and '09?

Mr. McCormick: That is objected to, on the ground that this is not cross-examination and that has nothing to do with the question whether or not this document is admissible.

A. I am certain that he did.

Q. My Mr. Lewers: And, so far as you know, this report might have been made in 1907, 1908 or 1909?

A. I have no way of telling when that was written at all, and could not state when it was made.

Q. Your father had some interests of his own in that vicinity in the later years of his life, did he not?

A. East of the McKittrick field a few miles; yes.

Mr. Lewers: We object to the introduction of the document, first, on the ground that it appears that it does not concern any of the lands in controversy; second, that the document is unaccounted

for as to when it was prepared, and, so far as appears from the face of it, might have been prepared long after the patent was granted; and, next, on the ground that it in no way appears to have been communicated to any officer or agent of the grantee company.

Mr. Mills: I will read this exhibit into the record, and let it be marked Plaintiff's Exhibit 4 R.

The report last referred to and offered in evidence is marked "Plaintiff's Exhibit 4 R—L.L.", and is as follows:

Town 30 S. Range 22 E M D M

The anticlinal fold mentioned as running through Town 30 S Range 21 E. continues through this Township. This anticline is not as sharp as the McKittrick anticline and as a consequence the area of available oil sands are much more than the McKittrick fold.

This anticline enters the Township near the N.W. corner of Sec. 6 and leaves it near the corner of Sec. 25. Two producing oil wells have been drilled on Sec. 6 on this anticline and Bituminous [1295] deposits are found in numerous places along the anticline. In addition to the above mentioned Horizon The McKittrick Oil Horizon runs through this Township. It enters the Township on the South near the center line of Sec. 34 runs $\frac{1}{2}$ mile due north there turns in a N W direction runs diagonally through Sec 28 And to the center of Sec 20 where it turns to a more westerly direction and passes out of the Township near the N W corner of

of the S W $\frac{1}{4}$ of the N W $\frac{1}{4}$ of Sec 19 This anticline is a very sharp fold the Strata dipping at various degrees ranging from 19° to 82° .

There appears to have been a lateral thrust which left the fold with the appearance of having been broken and in at least one place there is a thrust where one end of the fold laps past the other end making it somewhat difficult to follow the apex of the fold

TOWN 30 S RANGE 21 E

There is but one section of land owned by the S P Co in this town which can be considered as probable oil land. There is an Anticlinal fold running through this Sec from N W to S E wells have been drilled upon this Anticline which are represented to produce as much as 75 bbls per day The Sands producing the oil along this Anticline are entirely distinct and separate from the Sands of the McKittrick anticline The latter oil Sands are below a shale Horizon which is 1500 or 2000 feet thick while the sands on Sec 1 of this Town are above the shales above mentioned.

TOWN 24S RANGE 18E

The Anticlinal fold which runs just north of Dudley extends from Sec 7 on the west line of the Town Diagonally across the Township to near the S E Corner of Sec 34 This Anticlinal fold brings the Buttonbed Horizon near enough to the Surface to be reached with the Drill as there is but about 1000 ft of these Shales where in place it is quite

probable that much of this has [1296] been carried away by Erosion There is a fair probability that this land is oil territory but unfortunately most of the Valuable portion of it has been Sold for grazing land

TOWN No 23 S RANGE No 17 S

The Oil City or Eocene Horizon enters this Town near the middle of the west line of Sec 7 and runs diagonally across the Township and disappears between the Miocene Shales near the middle of Sec 21. The Miocene Shales lap over onto the Cretaceous and form an anticlinal ridge extending S E This anticlinal ridge finally terminates as an anticline in the Monterey Shales but extends through the balance of this Town. Oil Wells ought to be obtained along near the outcrop of the Eocene beds and the Button bed Horizon ought to be reached through the Monterey Shales along this anti-cline.

TOWN NO. 24S RANGE 17 E

The Anticlinal fold in the monterey Shales runs through the center of Sec 1 of this Town from N W to S E The Button bed Horizon ought to reach these Sands beneath the Monterey Shales The Pliocene Sands are exposed in the Sunflower Valley in this Town but there is no evidence that they are oil bearing

TOWN NO. 25 S RANGE 18 E M D M

The Dudley Anticline enters this Town near the N W corner of Sec 2 and extends diagonally across

to the S E corner of Sec 24 This Anticline is probably Oil territory Tar Springs occur on Sec 24 and prospect wells drilled are said to be able to produce 15 bbls of oil per day. All S. P oil lands in this Town were sold except 80 acres. [1297]

TOWN 32 S RANGE 24 East

The reserved sections in this Township are along and near the apex of a short anticline on Sec 11 near the west line there are extensive deposits of Asphaltum strongly impregnated with crystals of Sulphur The indications for oil are good No development work has been done nearer than the Midway fields

TOWN No. 32 S RANGE 23 E M D M

The reserved Sections in this Township are located upon the Midway Monocline and are very probably good oil territory

Very favorably located and may be considered as undoubted oil territory.

TOWN 31S RANGE 22 E M D M

The small amount of probable oil land owned by the S. P. Co. in this Town lays along the lower edge of the Midway Monocline and near the valley There are no Surface indications of oil upon these tracts of Land but they are located upon the Oil Horizon which furnished the Oil at McKittrick and also at Midway

TOWN 31 S RANGE 23 East M.D. M.

The reserved Lands in this Township are loaced upon an anticlinal fold across the Valley to the N E

of the Midway Oil Horizon The Sands of the Midway Oil Horizon can be reached upon the Sections reserved at a moderate depth there are no surface indications upon these reserved sections but in other parts of this Anticlinal fold there are extensive Asphaltum deposits indicating the possible presence of Oil in the Sands below. [1298]

I have the plat-book which was prepared by my father and kept by him. The first leaf of the plat-book is here marked plaintiff's exhibit 4-S. I have examined it carefully and the script notations and figures in the plat-book, wherever they occur, are in my father's handwriting. During his lifetime, my father kept this book with him in a little handbag that he carried when he traveled wherever he went. After my father's death, I found it in his handbag. Sometime this spring, Mr. E. T. Dumble made an examination of the papers that have been offered in evidence here. I think I placed all my father's papers before Mr. Dumble and he examined all that he wanted to. I also exhibited these papers to Mr. Bennett and Mr. Crawford. All these gentlemen examined these papers in my presence and they have never, to my knowledge, been seen by anyone else. During my father's lifetime I was entirely in his confidence. I have discussed with him various fields and also prospective fields in Kern County and around Coalinga and other fields in the state concerning their mineral bearing character. Very frequently during the last few years of his life we talked the matter over. We seriously contemplated the organization of a little company

where we could use my energy and his knowledge and acquire some of the various lands in the state. To a certain extent, I have heard my father pass upon the mineral bearing character of the lands in controversy in this suit in Township 30 South, Range 23 East. Our discussions were principally with regard to other minerals; but I have heard him state as to the oil bearing possibilities of these lands. He thought it was a good gamble; and that there was a chance of oil being there, but that it was deep. My father owned stock in a company owning or claiming the lands in the adjoining township, to wit: Township 30 South, Range 24 East, and he frequently expressed an opinion to me as to the presence of mineral on those lands. He was absolutely certain that Township 30 South, 24 East, and [1299] 30 South, 23 East, contained large bodies of Fuller's Earth that were valuable; in fact, he had no doubt about it. He was certain on that point—that there was a great body of Fuller's Earth through the Elk Hills. By the Elk Hills I mean that group of hills beginning about six miles east of McKittrick and extending to the Buena Vista Lake and including the land in controversy in this suit. At the time of my father's death he had in his possession passes over the Southern Pacific lines and over the lines reaching to the west side and, I think, a pass over the Santa Fe. I sent these passes back to the companies after my father's death. There was quite a stack of them. There might have been half a dozen or more; there might have been a dozen.

Mr. McCormick—You don't deny, do you, that Jo-

siah Owen was the assistant geologist of the Southern Pacific Company, under Mr. Dumble.

Mr. Lewers—"Southern Pacific"; yes. I never have.

Mr. Mills—Do you deny that he was reporting on lands for the Southern Pacific Railroad Company?

Mr. Lewers—I most emphatically do, because he was not.

Mr. Mills—Do you admit at this time that Mr. Dumble was consulting geologist of the Southern Pacific Company?

Mr. Lewers—Of the Southern Pacific Company, yes.

Mr. Mills—Was he at any time employed by the Southern Pacific Railroad Company?

Mr. Lewers—Not to my knowledge.

Mr. Mills—You don't deny that he might have, without your knowledge?

Mr. Lewers—Oh, he might have been, but—

Mr. Mills—And the same is true with reference to Mr. Owen.

Mr. Lewers—I believe that is the fact. They were employed in the geologist department of the Southern Pacific Company, [1300] a separate and distinct office in every way from the Southern Pacific Railroad Company.

Mr. Mills—And yet they would report to the Southern Pacific Railroad Company?

Mr. Lewers—Never, to my knowledge.

Mr. Mills—In the report to Mr. Kruttschnitt.

Mr. Lewers—If they reported to him he was, as I understand it, an officer of the Southern Pacific Company.

Mr. Mills—He was second vice-president of the Southern Pacific Railroad Company, too, wasn't he?

Mr. Lewers—That may have been. That is all in the record, whatever that may show.

Mr. McCormick—So far as the Southern Pacific Company is concerned, you will stipulate, as matter of record, that Mr. Dumble, from January 1st, 1903, at least until after the patent in this case was issued, was the consulting geologist of the Southern Pacific Company?

Mr. Lewers—I would not want to make that stipulation, because I don't know the dates, Mr. McCormick; but I know that he held that position. When he began I don't know. He holds that position today.

This book, in which pages 44 and 45 are marked plaintiff's exhibits 4-Sa and -Sb, is the one my father carried with him. I first saw the book in January, 1909, and my father died in December, 1909. Whenever my father came out to the fields he stopped at my house and I don't remember his ever being there without the book, as I have seen it on different occasions. I do not know when pages 44 and 45, or any portions of those pages, were made by my father. The blue parts of that map, Section 30, 32-4, and the north half of Section 31, in Township 31 South and 32 south, Range 23 East, represent locations made by the locators of the original Eight Oil Company. I think these locations were made January 1,

1907, if I am not mistaken, but not prior to that [1301] date. The map also represents locations that were made subsequent to 1904, being on Section 28, Township 32 South, Range 24 East, and it is differently colored from the others, being purple and being surrounded by markings of ink. That represented a desert land location made by S. P. Wible and C. F. Haberkern, Father helped to make those locations and was interested in them. That was in March, 1907. I don't know whether he made any additions to that map from time to time except what I have testified to with reference to later locations. There is nothing on the map that indicates the dates when he made any of those marks on that plat, and I am not able to state when any portion of that map was made other than from the evidence that the map furnishes on its face. Section 28, Township 32 South, Range 24 East, which is marked purple, was not purchased for oil land, but it is oil land now. There was a contest, as a matter of fact, made against the desert land entry on the ground that this land was oil land, and subsequently Mr. Wible and Mr. Haberkern and my father voluntarily relinquished their claim that it was a desert land entry. I know now that that was oil land. Referring to exhibit 4-H, which is the letter addressed to my father by Mr. Dumble, dated December 11, 1902,—on the visit that Mr. Dumble made to me shortly after the hearing in this case started, he made comment on that letter. He picked up the letter, read the whole of it through, that is, he

looked at exhibits 4-H, 4-H-1 and 4-H-2, folded them up, threw them aside and said, "That about fixes the date of your father's arrival"—I won't say in the oil fields," but "in the country." Mr. Dumble at that time did not expressly or impliedly deny the authenticity of these documents and I know he examined all of the papers that were introduced today. I came to California in January, 1909, and that is the reason I never examined this book until January, 1909.

Mr. Mills—We also desire to offer in evidence from this [1302] book, near the end of the book, a page headed, "Oil City, Oil Horizon," dated "October 15, 1904", and the following three pages and a half—three pages and a quarter. Also, on the third page from the end of the book, the matter headed, "El Capitan, Genesee & Trouger Lease G 20, May 4th, 1904", and the subsequent pages, and, also, the inside, first cover—whatever matter appears there—and the page directly opposite, at the present time.

Mr. Lewers—No objection.

Mr. Mills—The portions of the plat-book referred to and offered in evidence are as follows: That portion marked "4 Sc", is as follows:

"Oct 15th—04

Oil City Oil Horizon

The oil at this place appears to be at the Base of the Miocene or Eocene in a Bituminous shale with sand strata at the bottom There appears to

be about 600 ft of Bit. shale overlaid by something like 800 ft of sandy clays and sandy strata this lies below the Monterey Shales of the miocene Below the low bit shales in fact 450 ft from the Base is found about 20 ft of Red Brown sand below this is 450 ft shale below this shale below this shale is 75 ft of Brown Sand underlaid by 50 ft Sandy clay under this is 100 ft of Boulder Sand resting upon 1000 ft of clay beds containing Ammonites and Bacalites certainly Cretaceous (*following* Following the Bituminous clays the lowest sec of the Shales from Oil City on the west line of Sec 20 they extend to near the center of this Sec 20 R 29 T 15 E from this point they turn North through the center of Sec 17 also through Sec 8 to near the South line of Sec 5 from here they turn nearly N. W. through Sec 5 and enter the next Town [1303]

(cut out)
 (Near the S W Corner of Sec 34 runs diag-)
 (onally through Sec 33 to near N W corner)
 (thence through the S W $\frac{1}{4}$ of Sec 28 and)
 (diagonally through the N E $\frac{1}{4}$ of Sec 29 and)
 (through the S W $\frac{1}{4}$ of Sec 20 thence through)
 (the N E $\frac{1}{4}$ of Sec 19)

Near the S E corner of Sec 31—Town 18 S R 15 E thence diagonally through Sec 31 N W and enters Sec 25 T 18 S R 13 E near the S E corner and runs Northwest through Sec 25 enters Sec 23 near S E corner enters Sec 22 about the middle of

the N E $\frac{1}{4}$ of Sec and enters Sec 15 about the S W corner of the S E $\frac{1}{4}$ and continues as far as I could see in a N W direction Sec 15 was as far as I followed the Horizon It appears to be very regular in its thickness and appears to follow the same Nodular sand stone found at Oil City It is Bituminous through out its entire distance The Average dip is about 35° and it ought to be oil bearing

The Horizon of the Sec 28 Oil Co runs through Sec 29 T 19 S R 15 E near center of Sec thence across the N W corner of Sec 28 enters Sec 21 near the SW corner and runs diagonally through the E $\frac{1}{2}$ of the Sec enters Sec 15 near S W corner runs N.E. to near center of S East $\frac{1}{4}$ and runs N. W. enters Sec 3 near corner of S E $\frac{1}{4}$ and runs diagonally across to S West corner. Sec 33 T 18 S R 15 E near S E corner and enters Sec 28 near middle of S W $\frac{1}{4}$ enters Sec 29 near S E corner of N E $\frac{1}{4}$ and runs (in pencil) diagonally across Sec 20 to N W corner of S W $\frac{1}{4}$ and diagonally through the N E $\frac{1}{4}$ of Sec 19 enters Sec 13 T. 18 S. R 13 E from this point it trends more to the North and on Sec 19 a massive Stratum of Tale and Serpentine boulders and gravel takes the position previously occupied by the Oil Sands and either cutting the oil sand out or thorwing it further north This Oil [1304] horizon is W of Sec 3 T 19 R 15 Shows but little indication of oil and I doubt if it will pay for development work although a company is drilling a well on Sec 20 Town 18 R 15 E There has been well located about

600 ft North of the Oyster Horizon which at Oil City is 450 ft above the Oil Horizon.”

The part marked 4 Sd is as follows:

“May 4th 04 El Capitan Genessee & Producers
Lease G 20 ...

Producers Oil Co Wells never operated. Lease forfeited by non compliance with Terms

No record of any sub Lease to Genessee Co Six wells were required prior to Nov 26 1903

Lease G 22 Should complete six wells by Dec 7th 1903 Time to complete first two wells extended to May 28th 1903 this extended time to May 28th 1904 Commercial Oil Co Lease G 23 St Paul Fresno Co Probably forfeited for failure to operate leases 4 wells sunk within time required Contract provided 3 wells each year and if oil is found 3 additional wells shall be sunk each year consent if Co to sub lease was obtained consent of arrangement will probably reinstate the lease as being complied with

Lease G 45

Me Near

Six wells should have been completed by Jan 19 1904 only one completed to date No record of any extension of time for drilling other wells Time extended by Mr. Madden until Aug 15 1903 Time to sink first two wells expires May 15 1904 and time to commence subsequent work commences to run May 15th 1904 Nine months after contract time to commence work. (In pencil) Oil sepages on Sec 5 T 17 (blue pencil) [1305] R 12 Just below North New Idra mines.”

And the part marked "4 Se", are as follows:

"60.30 American (erasure) J. Owen Los Gatos
Cal. J Owen Room 1105 Flood Bldg S F

San Francisco

518 Merchants Exchange Building

S F"

[1306]

CROSS-EXAMINATION
OF ERWIN W. OWEN

I came to California in January, 1909, and it was after this time that I had these conversations with my father concerning the oil fields. It was also after this time that he expressed the belief that there was a great deal of Fuller's earth in the Elk Hills and stated that it was a gamble as to the oil, and that if it was there it would be very deep.

I had an interest in the Eight Oil Company, just as my father did, and discussed with him the proposed holdings of this company. During such discussion he frequently referred to the note book, which has been introduced in evidence, Exhibit 4 S, I have known him to refer to the plat appearing on pages 44 and 45 of this book, for the purpose of obtaining information for me, but I do not remember having seen him make any entries on that map. He never did tell me that it was a map he had prepared years before.

It was my opinion that he had prepared that map and the other papers in there, during the course of some time; that he had just built that up. I don't think that he had made the map at one time, but

he had, during his examinations, made that map for his own information. If he got any additional information later on he would add it to the map. This continued up to the time of his death.

There are some things on this plat that indicate that they must have been made subsequent to certain dates.

The blue parts of that map, Sections 30, 32-4, and the north half of Section 31, in Township 31 and 32 South, Range 23 East, represent locations made by the locators of the original Eight Oil Company. These were made January 1, 1907, if I am not mistaken, but they were not made prior to that date. It also appears on this map that Section 28, Township 32 South, Range 24 [1307] East is differently colored from the others. It is purple and is surrounded by markings of ink. That represents a desert land location made by S. P. Wible and C. F. Haberkern, in which my father was interested. This location was made in March, 1907.

My recollection is that my father carried this book with him whenever he went into the field. There is nothing in this book or on the map that indicates the dates when any of the marks or notations were made on the map.

I find further than in other portions of the book there are notations and plats referring to purely private matters. [1308]

LOCATION NOTICES

Mr. Mills—I find, Mr. Lewers, that the record of

mining location notices, as recorded in the office of the County Recorder for Kern County, California, for the years 1899 to 1906, inclusive, are indexed only by reference to the locators or the associations or persons in whose behalf said locations are made, and have therefore requested the Kern County Abstract Company of Bakersfield, California, to prepare from said records and submit for use in this case a memorandum of abstract of said notices, during the said [1309] years, from the county books and records of said county in the office of the county recorder thereof, covering each of the following sections of land, to wit: Section 14 to 36, inclusive, in Township 30 South, Range 23 East, M. D. M., and including the lands involved in suit. I am informed that these memoranda have been carefully compared and checked with the original county records of said county of Kern as appears from the books of the county recorder, and that they are true, compared, correct, exact copies of so much of said records as they purport to represent. May it, therefore, be stipulated that the memoranda of abstracts of notices of mining locations for the said descriptions of lands during the said years be received in evidence in this case and read into the record with the like force and same effect as if the county records of the Recorder's Office of the county of Kern themselves were produced and testified from under the oath of the County Recorder of Kern county?

Mr. Lewers—That stipulation is agreeable to us; and, in agreeing to it, we desire to be understood as not offering any objection to the form of the evi-

dence as offered, and we are willing to waive the testimony of the abstractor who prepared the reports which have been referred to, and also to waive the testimony of the County Recorder showing that such records appear upon his books. We do not desire, however, to be understood as admitting in any way that any such locations were actually made, or as waiving any objections that we now propose to make to the introduction of the evidence, these objections being considered as made to the original records themselves as evidence in the case, subject [1310] to the form in which they are now offered. Now, do you offer those in evidence?

Mr. Mills—Yes. I now offer in evidence the mining location notices for sections 14 to 36, inclusive, excepting Section 31, of Township 30 South, Range 23 East, M. D. M, including the lands in suit, as appear from the records of the office of the County Recorder of Kern county, for the years 1899 to 1906, inclusive, for the purpose of showing that constructive notice was given to the defendants in this case as early as 1899, and during the entire period before the issuance of the patent, of the mineral character of the lands involved in this suit, and that at all times during those years the said notices were on record in the proper and appropriate public depository of Kern County, California, and accessible at all times to the defendants.

Mr. Lewers—We object to the introduction of the testimony offered, and to each item thereof, on the ground that is purely hearsay; refers to transactions

in which none of the defendants were in any concerned, that the statements contained in the alleged records are purely self serving declarations, made for the benefit of persons other than the defendants; and on the further ground that at the time said alleged records were made there was no statute or law, federal or state, requiring that any location notice be either posted on the ground or recorded in any office; there was no statute or law of any kind making the contents of any such notice that may have been recorded evidence for any purpose in any court; and on the further ground that the fact that the records of Kern county may [1311] have set forth in them what purports to be location notices is in no way evidence of any act or thing done upon the ground, or any part of it, inasmuch as the said records were neither authorized nor sanctioned nor required by any law during the time the same purport to have been made. And we do now, for all the reasons herein before stated in this objection, move to strike from the record all of said alleged records; and we make this objection and motion upon the further ground that in the form and manner in which the said testimony is offered, consisting of entries in the books of the county recorded merely, we have been deprived of all opportunity to enquire or cross-examine as to whether, in any instance referred to in said alleged records, any location or discovery or act was done by any individual upon the ground in question.

Mr. Mills—I will now read into the record the mat-

ters last referred to and offered in evidence, as follows: [1312]

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 14, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Pelican Oil Co. No. 25 SE $\frac{1}{4}$				
	Nov. 9, 1899.	Nov. 18, 1899.	18	24
Pelican Oil Co. No. 26 SW $\frac{1}{4}$				
	Nov. 9, 1899.	Nov. 18, 1899.	18	24
Rajah No. 83 NW $\frac{1}{4}$				
	Dec. 14, 1899.	Dec. 15, 1899.	18	296
Rajah No. 84 NE $\frac{1}{4}$				
	Dec. 14, 1899.	Dec. 15, 1899.	18	296
Wagont No. 14 NE $\frac{1}{4}$				
	Jan. 1, 1901.	Jan. 2, 1901.	30	7
Wagont No. 15 NW $\frac{1}{4}$				
	Jan. 1, 1901.	Jan. 2, 1901.	30	8
Wagont No. — SW $\frac{1}{4}$				
	Jan. 1, 1901.	Jan. 2, 1901.	30	8
Wagont No. 17 SE $\frac{1}{4}$				
	Jan. 1, 1901.	Jan. 2, 1901.	30	9
St. Joseph SW $\frac{1}{4}$				
	Jan. 24, 1901.	Jan. 28, 1901.	27	370

Vista Laguna No. 19 NE $\frac{1}{4}$				
	Feb. 16, 1903.	Mar. 6, 1903.	46	482
Vista Laguna No. 20 NW $\frac{1}{4}$				
	Feb. 16, 1903.	Mar. 6, 1903.	46	483
Vista Laguna No. 21 SW $\frac{1}{4}$				
	Feb. 16, 1903.	Mar. 6, 1903.	46	484
Vista Laguna No. 22 SE $\frac{1}{4}$				
	Feb. 16, 1903.	Mar. 6, 1903.	46	485
Elks Range No. 5 NE $\frac{1}{4}$				
	Jan. 1, 1905.	Jan. 7, 1905.	54	405
Elks Range No. 6 NW $\frac{1}{4}$				
	Jan. 1, 1905.	Jan. 7, 1905.	54	406
Elks Range No. 7 SW $\frac{1}{4}$				
	Jan. 1, 1905.	Jan. 7, 1905.	54	407
Elks Range No. 8 SE $\frac{1}{4}$				
	Jan. 1, 1905.	Jan. 7, 1905.	54	408
				[1313]

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 15, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	
			Book Page

Blue Hills Oil Co. No. 1 SE $\frac{1}{4}$			
	Dec. 2, 1899	18	148
Blue Hills Oil Co. No. 5 SW $\frac{1}{4}$			
	Dec. 2, 1899	18	149

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Blue Hills Oil Co. No. 7 NW $\frac{1}{4}$

Dec. 2, 1899 18 150

Bule Hills Oil Co. No. 8 NE $\frac{1}{4}$

Dec. 2, 1899 18 151

Wagont No. 18 NE $\frac{1}{4}$

Jan. 2, 1901 30 9

Wagont No. 19 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 10

Wagont No. 20 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 10

Wagont No. 21 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 11

Santa Cruz SE $\frac{1}{4}$

Jan. 24, 1901 Jan. 26, 1901 25 473

Georgia NE $\frac{1}{4}$

Jan. 23, 1901 Jan. 26, 1901 25 474

Eldorado NW $\frac{1}{4}$

Jan. 23, 1901 Jan. 26, 1901 33 129

Golden West SW $\frac{1}{4}$

Jan. 23, 1901 Jan. 26, 1901 33 131

Vista Laguna No. 15 NE $\frac{1}{4}$

Feb. 16, 1903 Mar. 6, 1903 46 478

Vista Laguna No. 16 NW $\frac{1}{4}$

Feb. 16, 1903 Mar. 6, 1903 46 479

Vista Laguna No. 17 SW $\frac{1}{4}$

Feb. 16, 1903 Mar. 6, 1903 46 480

Vista Laguna No. 18 SE $\frac{1}{4}$

Feb. 16, 1903 Mar. 6, 1903 46 481

Potasi No. 2 NW $\frac{1}{4}$

Jan. 1, 1903 Apr. 20, 1903 31 464

Notice of Location	Date	Recorded—Mining Records	Book	Page
Potasi No. 3 SE $\frac{1}{4}$				
	Jan. 1, 1903	Apr. 20, 1903	31	464
Potasi No. 1 NE $\frac{1}{4}$				
	Jan. 1, 1903	Apr. 20, 1903	31	465
Potasi No. 4 SW $\frac{1}{4}$				
	Jan. 1, 1903	Apr. 20, 1903	31	465
Elks Range No. 9 NE $\frac{1}{4}$				
	Jan. 1, 1903		54	408
Elks Range No. 10 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 7, 1905	54	409
Elks Range No. 11 SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 7, 1905	54	410
Elks Range No. 12 SE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 7, 1905	54	411

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 16, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Rajah No. 85 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	297
Rajah No. 86 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	298

Rajah No. 87 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 298

Rajah No. 88 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 299

[1315]

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Wagont No. 22 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 11

Wagont No. 23 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 12

Wagont No. 24 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 13

Wagont No. 25 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 13

New York SW $\frac{1}{4}$

Dec. 22, 1900 Jan. 7, 1901 26 271

NW $\frac{1}{4}$ Dec. 24, 1900 Jan. 7, 1901 27 155Gladstone NE $\frac{1}{4}$

Jan. 23, 1901 Jan. 26, 1901 33 130

Eldorado SE $\frac{1}{4}$

Jan. 23, 1901 Jan. 26, 1901 33 132

Vista Laguna No. 23 NE $\frac{1}{4}$

Feb. 17, 1903 Mar. 6, 1903 46 486

Vista Laguna No. 24 NW $\frac{1}{4}$

Feb. 17, 1903 Mar. 6, 1903 46 487

Vista Laguna No. 25 SW $\frac{1}{4}$

Feb. 17, 1903 Mar. 6, 1903 46 488

Vista Laguna No. 26 SE $\frac{1}{4}$

Feb. 17, 1903 Mar. 6, 1903 46 489

Elks Range No. 13 NE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 411

Elks Range No. 14 NW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 412

Elks Range No. 15 SW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 413

Elks Range No. 16 SE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 414

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 17, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1316]

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Rajah No. 124 NW $\frac{1}{4}$	Dec. 16, 1899	18	329
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Rajah No. 125 SW $\frac{1}{4}$	Dec. 16, 1899	18	329
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Rajah No. 126 NE $\frac{1}{4}$	Dec. 16, 1899	18	330
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Rajah No. 127 SE $\frac{1}{4}$	Dec. 16, 1899	18	330
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Wagont No. 26 NE $\frac{1}{4}$	Jan. 2, 1901	30	13
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Wagont No. 27 NW $\frac{1}{4}$

Jan. 1, 1901	Jan. 2, 1901	30	14
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Wagont No. 28 SW $\frac{1}{4}$

Jan. 1, 1901	Jan. 2, 1901	30	14
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Wagont No. 29 SE $\frac{1}{4}$

Jan. 1, 1901	Jan. 2, 1901	30	15
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St. Louis SE $\frac{1}{4}$

Dec. 22, 1900	Jan. 7, 1901	26	270
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NW $\frac{1}{4}$	Dec. 24, 1900	Jan. 7, 1901	27	156
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NE $\frac{1}{4}$	Dec. 24, 1900	Jan. 7, 1901	27	156
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Tacoma SW $\frac{1}{4}$

Dec. 22, 1900 Jan. 10, 1901 26 348

Lark NW $\frac{1}{4}$ Jan. 1, 1902 Jan. 4, 1902 41 45

Nightingale NE $\frac{1}{4}$

Jan. 1, 1902 Jan. 4, 1902 41 46

Black Bird SE $\frac{1}{4}$

Jan. 1, 1902 Jan. 4, 1902 41 47

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 18, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1317]

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 128 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 331

Rajah No. 129 NE $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 332

Rajah No. 130 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 332

Rajah No. 131 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 333

Wagont No. 30 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 15

Wagont No. 31 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 16

Wagont No. 32 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 16

Wagont No. 33 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	17
Big Thunder NE $\frac{1}{4}$		Jan. 10, 1901	26	346
Washington SE $\frac{1}{4}$				
	Dec. 22, 1900	Jan. 10, 1901	26	349
Ida No. 1 NW $\frac{1}{4}$				
	Jan. 19, 1901	Jan. 22, 1901	27	306
Ida No. 4 SW $\frac{1}{4}$				
	Jan. 19, 1901	Jan. 22, 1901	27	307
Ida No. 3 SE $\frac{1}{4}$				
	Jan. 19, 1901	Jan. 22, 1901	27	308
Ida No. 2 NE $\frac{1}{4}$				
	Jan. 19, 1901	Jan. 22, 1901	27	309
				[1318]

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 19, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Rajah No. 132 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	333
Rajah No. 133 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	334
Rajah No. 134 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	335

Rajah No. 135 SE $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	335
Maryland SW $\frac{1}{4}$	Dec. 22, 1900	Dec. 29, 1900	24	312
Wagont No. 34 NE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	17
Wagont No. 35 NW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	18
Wagont No. 36 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	18
Wagont No. 37 SE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	19
White Cloud No. 10 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 3, 1901	25	182
White Cloud No. 9 SE $\frac{1}{4}$	Jan. 1, 1901	Jan. 3, 1901	25	183
Virginia NW $\frac{1}{4}$	Dec. 22, 1900	Jan. 7, 1901	26	255
Seattle NE $\frac{1}{4}$	Dec. 22, 1900	Jan. 10, 1901	26	343
San Diego SE $\frac{1}{4}$	Dec. 20, 1900	Jan. 10, 1901	26	350
1903 Oil Claim No. 3 SW $\frac{1}{4}$	Jan. 1, 1903	Jan. 9, 1903	46	119
[1319]				

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 20, in Township 30 South, Range

23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Pelican Oil Co. No. 20 SW $\frac{1}{4}$

Nov. 8, 1899 Nov. 18, 1899 18 22

Rajah No. 137 NE $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 336

Rajah No. 136 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 336

Rajah No. 138 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 337

Rajah No. 139 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 338

Weasel SW $\frac{1}{4}$

Dec. 18, 1899 Dec. 19, 1899 18 397

Wagont No. 38 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 19

Wagont No. 40 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 20

Wagont No. 39 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 20

Wagont No. 41 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 21

White Cloud No. 8 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 3, 1901 27 121

Pasadena SW $\frac{1}{4}$

Dec. 20, 1900 Jan. 7, 1901 26 258

Creasinger SE $\frac{1}{4}$

Dec. 20, 1900 Jan. 7, 1901 26 269

Pennsylvania NE $\frac{1}{4}$

Dec. 22, 1900 Jan. 7, 1901 26 272

Omaha NW $\frac{1}{4}$

Dec. 22, 1900 Jan. 10, 1901 26 342

Blue Jay SE $\frac{1}{4}$

Jan. 1, 1902 Jan. 4, 1902 41 49

[1320]

Notice of Location	Date	Recorded—Mining Records		
			Book	Page

Robin NE $\frac{1}{4}$

Jan 1, 1902 Jan. 4, 1902 41 50

1901 Oil Claim No. 4 SW $\frac{1}{4}$

Jan. 2, 1903 Jan. 9, 1903 46 120

Vista Laguna No. 7 NE $\frac{1}{4}$

Feb. 14, 1903 Mar. 6, 1903 46 474

Vista Laguna No. 8 NW $\frac{1}{4}$

Feb. 14, 1903 Mar. 6, 1903 46 475

Vista Laguna No. 9 SW $\frac{1}{4}$

Feb. 14, 1903 Mar. 6, 1903 46 476

Vista Laguna No. 10 SE $\frac{1}{4}$

Feb. 14, 1903 Mar. 6, 1903 46 477

Elks Range No. 17 NE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 414

Elks Range No. 18 NW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1805 54 415

Elks Range No. 19 SW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 416

Elks Range No. 20 SE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 417

MEMORANDUM ABSTRACT

Of all Notices of Location of Mining Claims recorded

in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 21, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1321]

Notice of Location	Date	Recorded—Mining Records	Book	Page
Wagy Oil Co. No. 2 SE $\frac{1}{4}$				
	Nov. 28, 1899	Dec. 2, 1899	18	154
Wagy Oil Co. No. 1 NE $\frac{1}{4}$				
	Nov. 28, 1899	Dec. 2, 1899	18	155
Rajah No. 89 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	299
Rajah No. 90 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	300
Big Grey SW $\frac{1}{4}$				
	Dec. 17, 1899	Dec. 19, 1899	18	399
Wagont No. 42 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	21
Wagont No. 43 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	22
Wagont No. 44 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	22
Wagont No. 45 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	23
Chicago NW $\frac{1}{4}$				
	Dec. 22, 1900	Jan. 7, 1901	26	273
Monterey SE $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	25	474

Dominguez NE $\frac{1}{4}$	Jan. 24, 1901	Jan. 26, 1901	25	479
Simmons SW $\frac{1}{4}$	Jan. 22, 1901	Jan. 26, 1901	33	129
Blue Bird NW $\frac{1}{4}$	Jan. 1, 1902	Jan. 4, 1902	41	43
X 10 U 8 Oil Co. No. 5E N $\frac{1}{4}$	Feb. 17, 1903	Feb. 21, 1903	46	370
X 10 U 8 Oil Co. No. 6 NW $\frac{1}{4}$	Feb. 17, 1903	Feb. 21, 1903	46	371
X 10 U 8 Oil Co. No. 7 SW $\frac{1}{4}$	Feb. 17, 1903	Feb. 21, 1903	46	373
X 10 U 8 Oil Co. No. 8 SE $\frac{1}{4}$	Feb. 17, 1903	Feb. 21, 1903	46	374
Rlks Range No. 21 NE $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	418
Elks Range No. 22 NW $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	418
Elks Range No. 23 SW $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	419
Elks Range No. 24 SE $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	420
[1322]				

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 22, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Blue Hills Oil Co. No. 2 NE $\frac{1}{4}$				
	Nov. 26, 1899	Dec. 2, 1899	18	148
Blue Hills Oil Co. No. 3 SE $\frac{1}{4}$				
	Nov. 26, 1899	Dec. 2, 1899	18	148
Blue Hills Oil Co. No. 6 NW $\frac{1}{4}$				
	Nov. 26, 1899	Dec. 2, 1899	18	150
Blue Hills Oil Co. No. 9 SW $\frac{1}{4}$				
	Nov. 28, 1899	Dec. 2, 1899	18	151
Wagont No. 46 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	23
Wagont No. 47 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	24
Wagont No. 48 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	24
Wagont No. 49 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	25
Belmont SW $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	33	136
Gypsy Queen NE $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	33	137
Kern SE $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	33	138
White Swan NW $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 30, 1901	34	102
Black Bird SE $\frac{1}{4}$				
	Mar. 5, 1901	Mar. 7, 1901	35	20
Rose Bud NE $\frac{1}{4}$				
	Mar. 5, 1901	Mar. 7, 1901	35	21
Lillie Queen NW $\frac{1}{4}$				
	Mar. 5, 1901	Mar. 8, 1901	30	451

Flint Lock SW $\frac{1}{4}$	Mar. 5, 1901	Mar. 8, 1901	35	21
Dover No. 1 SW $\frac{1}{4}$	Feb. 11, 1903	Mar. 10, 1903	31	454
	[1323]			
Notice of Location	Date	Recorded—Mining Records	Book Page	
Dover No. 3 SE $\frac{1}{4}$	Feb. 11, 1903	Mar. 10, 1903	31	455
Dover No. 2 NW $\frac{1}{4}$	Feb. 11, 1903	Mar. 10, 1903	31	455
Dover No. 4 NE $\frac{1}{4}$	Feb. 11, 1903	Mar. 10, 1903	31	456
Malvina No. 4 SW $\frac{1}{4}$	Jan. 1, 1903	Apr. 20, 1903	31	462
Malvina No. 3 SE $\frac{1}{4}$	Jan. 1, 1903	Apr. 20, 1903	31	462
Malvina No. 2 NW $\frac{1}{4}$	Jan. 1, 1903	Apr. 20, 1903	31	463
Malvina NE $\frac{1}{4}$	Jan. 1, 1903	Apr. 20, 1903	31	463
Elks Range No. 1 NE $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	402
Elks Range No. 2 NW $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	403
Elks Range No. 3 SW $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	404
Elks Range No. 4 SE $\frac{1}{4}$	Jan. 1, 1905	Jan. 7, 1905	54	405

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded

in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 23, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1324]

Notice of Location Date Recorded—Mining Records
Book Page

Pelican Oil Co. No. 21 SE $\frac{1}{4}$				
Nov. 8, 1899	Nov. 18, 1899	18	23	
Pelican Oil Co. No. 24 NE $\frac{1}{4}$				
Nov. 9, 1899	Nov. 18, 1899	18	24	
Pelican Oil Co. No. 27 NW $\frac{1}{4}$				
Nov. 9, 1899	Nov. 18, 1899	18	25	
Pelican Oil Co. No. 28 SW $\frac{1}{4}$				
Nov. 9, 1899	Nov. 18, 1899	18	25	
Wagont No. 50 NE $\frac{1}{4}$				
Jan. 1, 1901	Jan. 2, 1901	30	25	
Wagont No. 51 NW $\frac{1}{4}$				
Jan. 1, 1901	Jan. 2, 1901	30	26	
Wagont No. 52 SW $\frac{1}{4}$				
Jan. 1, 1901	Jan. 2, 1901	30	26	
Wagont No. 53 SE $\frac{1}{4}$				
Jan. 1, 1901	Jan. 2, 1901	30	27	
Sun Flower NW $\frac{1}{4}$				
Jan. 24, 1901	Feb. 9, 1901	27	410	
Rubin SW $\frac{1}{4}$				
Jan. 24, 1901	Feb. 9, 1901	27	411	
Gray Hound NE $\frac{1}{4}$	Mar. 7, 1901	34	364	
Blue Jay SE $\frac{1}{4}$	Mar. 7, 1901	34	365	

Blue Gross NE $\frac{1}{4}$	Mar. 5, 1901	Mar. 8, 1901	33	453
Last Chanse SW $\frac{1}{4}$	Mar. 5, 1901	Mar. 8, 1901	33	454
Sultan No. 57 NE $\frac{1}{4}$	Jan. 1, 1903	Jan. 3, 1903	30	140
Sultan No. 55 SE $\frac{1}{4}$	Jan. 1, 1903	Jan. 3, 1903	30	141
Sultan No. 56 SW $\frac{1}{4}$	Jan. 1, 1903	Jan. 3, 1903	30	140
Black Jack No. 2 NW $\frac{1}{4}$	Jan. 1, 1903	Jan. 3, 1903	45	381
[1325]				

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 24, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Pelican Oil Co. No. 17 SE $\frac{1}{4}$	Nov. 8, 1899	Nov. 18, 1899	18	21
Pelican Oil Co. No. 23 NW $\frac{1}{4}$	Nov. 9, 1899	Nov. 18, 1899	18	23
Pelican Oil Co. No. 22 NE $\frac{1}{4}$	Nov. 8, 1899	Nov. 18, 1899	18	23
Black Hawk No. 12 SW $\frac{1}{4}$	Sept. 5, 1900	Sept. 19, 1900	22	493

Wagont No. 54 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	27
Wagont No. 54 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	28
Wagont No. 56 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	28
Wagont No. 57 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	29
C. L. Ward No. 1 NE $\frac{1}{4}$				
	Feb. 14, 1901	Feb. 18, 1901	34	256
A. M. Robinson No. 1 SE $\frac{1}{4}$				
	Feb. 14, 1901	Feb. 18, 1901	34	257
T. E. McShane No. 3 NW $\frac{1}{4}$				
	Feb. 14, 1901	Feb. 18, 1901	34	265
T. E. McShane No. 4 SW $\frac{1}{4}$				
	Feb. 14, 1901	Feb. 18, 1901	34	267
Sultan No. 58 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	138
Sultan No. 59 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	138
Sultan No. 54 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	139
Sultan No. 53 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	139
[1326]				
Notice of Location	Date	Recorded—Mining Records		
			Book	Page
Crow No. 1 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 5, 1903	39	81
Dover No. 5 SE $\frac{1}{4}$				
	Jan. 28, 1905	Jan. 30, 1905	55	192

Dover No. 6 SW $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 193

Dover No. 7 NE $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 194

Dover No. 8 NW $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 194

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 25, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Pelican Oil Co. No. 16 NE $\frac{1}{4}$

Nov. 8, 1899 Nov. 18, 1899 18 21

Pelican Oil Co. No. 18 NW $\frac{1}{4}$

Nov. 8, 1899 Nov. 18, 1899 18 21

Rajah No. 99 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 305

Rajah No. 100 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 306

Rustler No. 13 SE $\frac{1}{4}$

Dec. 20, 1899 Jan. 13, 1900 18 430

Wagont No. 58 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 29

Wagont No. 59 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 30

Notice of Location Date Recorded—Mining Records
Book Page

Wagont No. 60 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 30

Wagont No. 61 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 31

Sultan No. 51 NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 136

Sultan No. 52 NE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 136

Sultan No. 47 SE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 137

Sultan No. 48 SW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 137

Crow No. 6 NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 5, 1903 39 82

Crow No. 8 SE $\frac{1}{4}$

Jan. 1, 1903 Jan. 5, 1903 39 84

Crow No. 5 NE $\frac{1}{4}$

Jan. 1, 1903 Jan. 5, 1903 39 85

Crow No. 7 SW $\frac{1}{4}$

Jan. 1, 1903 Jan. 5, 1903 39 85

Dover No. 1 NE $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 190

Dover No. 2 NW $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 190

Dover No. 3 SE $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 191

Dover No. 4 SW $\frac{1}{4}$

Jan. 28, 1905 Jan. 30, 1905 55 192

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 26, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1328]

Notice of Location	Date	Recorded—Mining Records	
			Book Page

Pelican Oil Co. No. 19 NE $\frac{1}{4}$				
	Nov. 8, 1899	Nov. 18, 1899	18	22
Pelican Oil Co. No. 29 NW $\frac{1}{4}$				
	Nov. 9, 1899	Nov. 18, 1899	18	26
Rajah No. 97 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	304
Rajah No. 98 SE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	305
Wagont No. 63 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	32
Wagont No. 62 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	31
Wagont No. 65 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1902	30	33
Wagont No. 64 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	32
Eagle SW $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 9, 1901	27	411
Wilson NW $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 25, 1901	27	488

Adna No. 2 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 2, 1903	45	230
Sultan No. 5-- NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	135
Sultan No. 49 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	135
Black Jack No. 1 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	374
Blue Jay NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	375
Buckhorn No. 1 NE $\frac{1}{4}$				
	Feb. 11, 1903	Mar. 10, 1903	31	456
Buckhorn No. 2 NW $\frac{1}{4}$				
	Feb. 11, 1903	Mar. 10, 1903	31	459
Buckhorn No. 3 SE $\frac{1}{4}$				
	Feb. 11, 1903	Mar. 10, 1903	31	459
Buckhorn No. 4 SW $\frac{1}{4}$				
	Feb. 11, 1903	Mar. 10, 1903	31	460
Elk Hills No. 25 NW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 7, 1905	54	397
Elks Range No. 26 SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 7, 1905	54	421
				[1329]

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 27, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Blue Hills Oil Co. No. 4 NE $\frac{1}{4}$	Nov. 26, 1899	Dec. 2, 1899	18	149
Blue Hills Oil Co. No. 10 NW $\frac{1}{4}$	Nov. 28, 1899	Dec. 2, 1899	18	151
Rajah No. 95 SW $\frac{1}{4}$	Dec. 14, 1899	Dec. 15, 1899	18	303
Rajah No. 96 SE $\frac{1}{4}$	Dec. 14, 1899	Dec. 15, 1899	18	304
Wagont No. 66 NE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	33
Wagont No. 67 NW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	34
Wagont No. 68 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	34
Wagont No. 69 SE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	35
Bonton NW $\frac{1}{4}$	Jan. 24, 1901	Jan. 30, 1901	34	87
Flugstod NE $\frac{1}{4}$	Jan. 24, 1901	Jan. 30, 1901	34	88
Charley SE $\frac{1}{4}$	Jan. 24, 1901	Jan. 30, 1901	34	89
Dipsev SW $\frac{1}{4}$	Jan. 24, 1901	Jan. 30, 1901	34	89
Vista Laguna No. 3 NE $\frac{1}{4}$	Feb. 12, 1903	Mar. 6, 1903	46	470
Vista Laguna No. 4 NW $\frac{1}{4}$	Feb. 12, 1903	Mar. 6, 1903	46	471

Vista Laguna No. 5 SW $\frac{1}{4}$

Feb. 12, 1903 Mar. 6, 1903 46 472

Vista Laguna No. 6 SE $\frac{1}{4}$

Feb. 12, 1903 Mar. 6, 1903 46 473

[1330]

Notice of Location	Date	Recorded—Mining Records	
		Book	Page

White Cloud No. 2 NW $\frac{1}{4}$

Jan. 1, 1903 Apr. 20, 1903 31 461

White Cloud No. 1 NE $\frac{1}{4}$

Jan. 1, 1903 Apr. 20, 1903 31 461

Elk Hills No. 27 NE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 399

Elk Hills No. 28 NW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 399

Elk Hills No. 29 SW $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 400

Elk Hills No. 30 SE $\frac{1}{4}$

Jan. 1, 1905 Jan. 7, 1905 54 401

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1889 to 1906, both years inclusive, affecting or in any way relating to Section 28, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	
		Book	Page

Rajah No. 91 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 301

Rajah No. 92 NE $\frac{1}{4}$	Dec. 14, 1900	Dec. 15, 1899	18	301
Rajah No. 93 SW $\frac{1}{4}$	Dec. 14, 1899	Dec. 15 1899	18	302
Rajah No. 94 SE $\frac{1}{4}$	Dec. 14, 1899	Dec. 15, 1899	18	302
Bonanza No. 1 NW $\frac{1}{4}$	Dec. 17, 1899	Dec. 19, 1899	18	398
Fox Hound SW $\frac{1}{4}$	Dec. 17, 1899	Dec. 19, 1899	18	398
[1331]				

Notice of Location Date Recorded—Mining Records
Book Page

Colonel SE $\frac{1}{4}$	Dec. 17, 1899	Dec. 19, 1899	18	399
Esparanza NE $\frac{1}{4}$	Dec. 17, 1899	Dec. 19, 1899	18	400
Wood SW $\frac{1}{4}$	Dec. 20, 1900	Dec. 27, 1900	24	295
Dewey NW $\frac{1}{4}$	Dec. 20, 1900	Dec. 27, 1900	24	299
Wagont No. 70 NE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	35
Wagont No. 71 NW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	36
Wagont No. 72 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	36
Wagont No. 73 SE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	37
Huntington E $\frac{1}{2}$ of SW $\frac{1}{4}$	Dec. 14, 1900	Jan. 12, 1901	25	329

Hazleton	W $\frac{1}{2}$ of SW $\frac{1}{4}$				
	Dec. 14, 1900	Jan. 12, 1901	25	330	
McCarty	NE $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	25	471	
Black Hill	SE $\frac{1}{4}$				
	Jan. 24, 1901	Jan. 26, 1901	25	477	
Dewey	NW $\frac{1}{4}$				
	Jan. 1, 1902	Jan. 2, 1902	38	24	
Wisconsin	NW $\frac{1}{4}$				
	Jan. 2, 1902	Jan. 16, 1902	35	430	
Nebraska	SW $\frac{1}{4}$				
	Jan. 2, 1902	Jan. 16, 1902	35	431	
X 10 U S Oil Co. No. 1	NE $\frac{1}{4}$				
	Feb. 14, 1903	Feb. 21, 1903	46	366	
X 10 U Eight Oil Co. No. 2	NW $\frac{1}{4}$				
	Feb. 14, 1903	Feb. 21, 1903	46	367	
X 10 U 8 Oil Co. No. 3	SW $\frac{1}{4}$				
	Feb. 14, 1903	Feb. 21, 1903	46	368	
X 10 U 8 Oil Co. No. 4	SE $\frac{1}{4}$				
	Feb. 14, 1903	Feb. 21, 1903	46	369	

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 29, [1332] in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
Rajah No. 140 NW $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	338
Rajah No. 141 NE $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	339
Rajah No. 142 SW $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	339
Rajah No. 143 SE $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	340
Ferret SW $\frac{1}{4}$	Dec. 18, 1899	Dec. 19, 1899	18	397
Rabbit Foot NW $\frac{1}{4}$	Dec. 18, 1899	Dec. 19, 1899	18	398
Bear SE $\frac{1}{4}$	Dec. 18, 1899	Dec. 19, 1899	18	401
Wagont No. 74 NE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	37
Wagont No. 75 NW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	38
Wagont No. 76 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	38
Wagont No. 77 SE $\frac{1}{4}$	Jan. 1, 1901	Jan. 2, 1901	30	39
White Cloud No. 7 NW $\frac{1}{4}$	Jan. 1, 1901	Jan. 3, 1901	27	121
Montana E $\frac{1}{2}$ of SW $\frac{1}{4}$	Dec. 13, 1900	Jan. 7, 1901	26	276
Oregon W $\frac{1}{2}$ of SW $\frac{1}{4}$	Dec. 12, 1900	Jan. 7, 1901	26	277
Morning Sun SE $\frac{1}{4}$	Dec. 20, 1900	Jan. 10, 1901	26	341

Gold Bag NW $\frac{1}{4}$	Dec. 20, 1900	Jan. 10, 1901	26	351
White Cloud No. 6 SW $\frac{1}{4}$	Jan. 1, 1901	Jan. 10, 1901	27	187
Salem E $\frac{1}{2}$ of SE $\frac{1}{4}$	Dec. 14, 1900	Jan. 11, 1901	25	325
Berwick W $\frac{1}{2}$ of SE $\frac{1}{4}$	Dec. 14, 1900	Jan. 11, 1901	25	326
Evening Star NE $\frac{1}{4}$	Dec. 20, 1900	Jan. 15, 1901	25	368
Iowa SE $\frac{1}{4}$	Jan. 2, 1902	Jan. 16, 1902	35	431
Elk Hills No. 10 SE $\frac{1}{4}$	Jan. 5, 1903	Jan. 9, 1903	45	493
Elk Hills No. 5 SW $\frac{1}{4}$	Jan. 1, 1903	Jan. 9, 1903	45	498
1903 Oil Claim No. 5 NE $\frac{1}{4}$	Jan. 2, 1903	Jan. 9, 1903	46	118
[1333]				

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 30, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Rajah No. 144 NW $\frac{1}{4}$	Dec. 14, 1899	Dec. 16, 1899	18	341
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Rajah No. 145 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	341
Rajah No. 146 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	342
Rajah No. 147 SE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	342
Gopher SE $\frac{1}{4}$				
	Dec. 18, 1899	Dec. 19, 1899	18	400
Rattle Snake NE $\frac{1}{4}$				
	Dec. 18, 1899	Dec. 19, 1899	18	401
New York E $\frac{1}{2}$ of SE $\frac{1}{4}$				
	Dec. 12, 1900	Dec. 19, 1900	23	451
Virginia W $\frac{1}{2}$ of SE $\frac{1}{4}$				
	Dec. 13, 1900	Dec. 19, 1900	23	454
NE $\frac{1}{4}$	Dec. 20, 1900	Dec. 27, 1900	24	301
Virginia NW $\frac{1}{4}$				
	Dec. 22, 1900	Dec. 28, 1900	27	2
Wagont No. 78 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	39
Wagont No. 79 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	40
Wagont No. 80 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	40
Wagont No. 81 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	41
White Cloud No. 3 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 3, 1901	25	179
White Cloud No. 2, NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 3, 1901	25	180
White Cloud No. 1 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 3, 1901	25	181

Notice of Location Date Recorded—Mining Records
Book Page

White Cloud No. 4 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 10, 1901 27 187

Virginia NW $\frac{1}{4}$

Jan. 1, 1902 Jan. 2, 1902 38 22

Stedman No. 2 NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 2, 1903 45 225

Elk Hills No. 1 SW $\frac{1}{4}$

Jan. 1, 1903 Jan. 9, 1903 45 494

Elk Hills No. 2, NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 9, 1903 45 496

Elk Hills No. 4 SE $\frac{1}{4}$

Jan. 1, 1903 Jan. 9, 1903 45 497

1903 Oil Claim No. 2 NE $\frac{1}{4}$

Jan. 1, 1903 Jan. 9, 1903 46 117

Pine SW $\frac{1}{4}$

Jan. 1, 1906 Jan. 3, 1906 57 331

Red Fox NW $\frac{1}{4}$

Jan. 1, 1906 Jan. 6, 1906 57 356

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 32, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1335]

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 148 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 16, 1899 18 343

Rajah No. 150 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	344
Rajah No. 149 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	344
Rajah No. 151 SE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	345
Garciosa NE $\frac{1}{4}$				
	Dec. 18, 1899	Dec. 19, 1899	18	400
Chipmunk NW $\frac{1}{4}$				
	Dec. 18, 1899	Dec. 19, 1899	18	401
Illinois W $\frac{1}{2}$ of SE $\frac{1}{4}$				
	Dec. 13, 1900	Dec. 19, 1900	23	450
Ohio E $\frac{1}{2}$ of SE $\frac{1}{4}$				
	Dec. 13, 1900	Dec. 19, 1900	23	452
Sunnyside *				
	Dec. 24, 1900	Dec. 27, 1900	27	1
Irene *				
	Dec. 24, 1900	Dec. 28, 1900	28	2
Bonita *				
	Dec. 24, 1900	Dec. 31, 1900	27	4
Wagont No. 82 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	41
Wagont No. 83 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	42
Wagont No. 84 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	42
Wagont No. 85 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	43
Los Angeles NE $\frac{1}{4}$				
	Dec. 20, 1900	Jan. 10, 1901	26	352
White Cloud No. 13 NE $\frac{1}{4}$				
	Jan. 5, 1901	Jan. 10, 1901	27	186

White Cloud No. 5 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 10, 1901	27	188
White Cloud No. 12 SE $\frac{1}{4}$				
	Jan. 5, 1901	Jan. 10, 1901	27	188
White Cloud No. 11 SW $\frac{1}{4}$				
	Jan. 5, 1901	Jan. 10, 1901	27	189
Shickshinny W $\frac{1}{2}$ of NE $\frac{1}{4}$				
	Dec. 14, 1900	Jan. 11, 1901	25	324
West Union E $\frac{1}{2}$ of NE $\frac{1}{4}$				
	Dec. 14, 1900	Jan. 11, 1901	25	327
Ohio E $\frac{1}{2}$ of SW $\frac{1}{4}$				
	Dec. 13, 1900	Jan. 30, 1901	34	86
Elk Hills No. 6 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 9, 1903	45	499
Elk Hills No. 7 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 9, 1903	47	1
Elk Hills No. 8 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 9, 1903	47	2
Elk Hills No. 9 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 9, 1903	47	3
(* Described by metes and bounds)			[1336]	

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 33, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 152 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	345
Rajah No. 153 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	347
Rajah No. 154 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 16, 1899	18	347
Rajah No. 150 SE $\frac{1}{4}$				
	Dec. 16, 1899	Dec. 16, 1899	18	348
Wagont No. 86 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	43
Wagont No. 87 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	44
Wagont No. 88 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	44
Wagont No. 89 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	45
Beaver NW $\frac{1}{4}$				
	Dec. 20, 1900	Jan. 7, 1901	26	270
Fremont W $\frac{1}{2}$ of SW $\frac{1}{4}$				
	Dec. 13, 1900	Jan. 7, 1901	26	274
Georgia W $\frac{1}{2}$ of SE $\frac{1}{4}$				
	Dec. 13, 1900	Jan. 11, 1901	25	328
New Columbus W $\frac{1}{2}$ of NW $\frac{1}{4}$				
	Dec. 14, 1900	Jan. 12, 1901	25	331
Town Hill E $\frac{1}{2}$ of NW $\frac{1}{4}$				
	Dec. 14, 1900	Jan. 12, 1901	25	332
W. S. Cather No. 1 NW $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 4, 1901	33	310

McCarty No. 2 NE $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 8, 1901	27	408
Angelus SE $\frac{1}{4}$				
	Jan. 1, 1902	Jan. 2, 1902	38	23
Grey Eagle NW $\frac{1}{4}$				
	Jan. 1, 1902	Jan. 4, 1902	41	48
				[1337]

Notice of Location Date Recorded—Mining Records
Book Page

White Horse No. 4 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	376
White Horse No. 3 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	377
White Horse No. 1 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	378
White Horse No. 2 NE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 3, 1903	45	379

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 34, Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 101 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	307
Rajah No. 102 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	307

Rajah No. 103 NE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 308

Rajah No. 104 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 308

Antelope NW $\frac{1}{4}$

Dec. 18, 1899 Dec. 19, 1899 18 399

Wagont No. 90 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 45

[1338]

Notice of Location Date Recorded—Mining Records
Book Page

Wagont No. 91 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 46

Wagont No. 92 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 46

Wagont No. 93 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 47

Big Thunder NW $\frac{1}{4}$

Jan. 24, 1901 Jan. 31, 1901 33 257

Sultan No. 41 NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 133

Sultan No. 42 NE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 133

Sultan No. 39 SE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 134

Sultan No. 40 SW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 134

MEMORANDUM ABSTRACT

Of all Notices of Location of Mining Claims recorded
in the office of the County Recorder of the County of

Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 35, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 105 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 309

Rajah No. 106 NE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 310

Rajah No. 107 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 310

Rajah No. 108 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 311

[1339]

Notice of Location Date Recorded—Mining Records
Book Page

Wagont No. 94 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 47

Wagont No. 95 NW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 48

Wagont No. 96 SW $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 48

Wagont No. 97 SE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 49

Sultan No. 43 NW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 130

Sultan No. 44 NE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 131

Sultan No. 37 SE $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 131

Sultan No. 38 SW $\frac{1}{4}$

Jan. 1, 1903 Jan. 3, 1903 30 132

MEMORANDUM ABSTRACT

Of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 36, Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Rajah No. 109 NW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 311

Rajah No. 110 NE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 312

Rajah No. 111 SW $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 313

Rajah No. 112 SE $\frac{1}{4}$

Dec. 14, 1899 Dec. 15, 1899 18 313

[1340]

Notice of Location Date Recorded—Mining Records
Book Page

Rustler No. 12 NE $\frac{1}{4}$

Dec. 20, 1899 June 13, 1900 18 431

Wagont No. 98 NE $\frac{1}{4}$

Jan. 1, 1901 Jan. 2, 1901 30 49

Wagont No. 99 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	50
Wagont No. 100 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	50
Wagont No. 101 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	51
Sultan No. 45 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	128
Sultan No. 46 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	129
Sultan No. 35 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	129
Sultan No. 36 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	130
Black Jack SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 3, 1905	54	296
White Horse NW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 3, 1905	54	297
Beanfield No. 17 SE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	65
Beanfield No. 18 NE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	66

Dated at Bakersfield, California, this 14th day of September, 1912.

THE KERN COUNTY ABSTRACT COMPANY,

By

H. C. YATES

Secretary.

(Seal)

THE KERN COUNTY ABSTRACT COMPANY

Incorporated

Mar. 29, 1895

Bakersfield, Cal.

[1341]

MR. MILLS:—I now offer in evidence, under the same stipulation, an abstract of mining location notices, from the books of the recorder of the county of Kern, during the same period of time, covering Sections 29, 31 and 33, in Township 30 South, Range 24 East, which is a township immediately adjoining the lands involved in suit, on the east, for the purpose of showing the interest of J. B. Treadwell and certain other employees of the Southern Pacific Company and Southern Pacific Railroad Company, defendants in this suit.

MR. LEWERS:—We are willing that the same stipulation shall apply; but we make the same objections and motion as to this evidence, and the additional objection that it is incompetent, irrelevant and immaterial, because the evidence offered concerns lands situated in another township, and for the further reason that no showing has been made indicating in any way that any of the defendants were connected, directly or indirectly, with the location referred to, if any such locations were made, and no showing has been made that the witness J. B. Treadwell in any way authorized or directed any such locations, or that he had any knowledge of their existence. It will be understood, will it not, Mr. Mills, that in case either of us should discover any error in this abstract, either due to the inclusion of something that does not belong in there or the omission of something that does belong in there, that error may be corrected at a later time?

MR. MILLS:—Certainly.

MR. LEWERS:—And that we reserve the right to

offer any [1342] evidence in connection with that that we may see fit to produce?

MR. MILLS:—Certainly.

MR. MILLS:—I will now read into the record the matters last referred to and offered in evidence, as follows: [1343]

MEMORANDUM ABSTRACT

Of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 29, in Township 30 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location Date Recorded—Mining Records
Book Page

Pelican Oil Co. No. 6 SW $\frac{1}{4}$				
	Nov. 6, 1899	Nov. 18, 1899	18	17
Pelican Oil Co. No. 11 SE $\frac{1}{4}$				
	Nov. 6, 1899	Nov. 18, 1899	18	19
Pelican Oil Co. No. 12 NE $\frac{1}{4}$				
	Nov. 6, 1899	Nov. 18, 1899	18	19
Pelican Oil Co. No. 13 NW $\frac{1}{4}$				
	Nov. 6, 1899	Nov. 18, 1899	18	20
Rustler No. 8 SE $\frac{1}{4}$				
	Dec. 19, 1899	Jan. 13, 1900	18	432
Wagont No. 138 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	69
Wagont No. 139 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	70

Wagont No. 140 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	70
Wagont No. 141 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	71
White Cloud No. 7 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 3, 1901	27	121
Suprise NE $\frac{1}{4}$				
	Feb. 17, 1901	Feb. 23, 1901	33	398
Argonaut NW $\frac{1}{4}$				
	Feb. 17, 1901	Mar. 23, 1901	34	446
I no SW $\frac{1}{4}$				
	Oct. 24, 1901	Oct. 18, 1901	35	274
Sultan No. 13 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	121
Sultan No. 24 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	122
Sultan No. 23 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	122
Sultan No. 14 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	123
				[1344]
Notice of Location	Date	Recorded—Mining Records		
			Book	Page
Globe NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 5, 1903	39	81
Uno NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 5, 1903	39	82
Monte Carlo SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 5, 1903	39	84
Dredger No. 1 SE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	67

Dredger No. 2 NE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	68
Dredger No. 3 NW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	69
Dredger No. 4 SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	70

MEMORANDUM ABSTRACT

Of all Notices of Location of Mining Claims recorded in the office of the County Recorder of the County of Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 31, Township 30 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Kern, State of California.

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Pelican Oil Co. No. 5 NE $\frac{1}{4}$				
	Nov. 6, 1899	Nov. 18, 1899	18	17
Rajah No. 13 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	256
Rajah No. 14 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	256
Rustler No. 11 NW $\frac{1}{4}$				
	Dec. 20, 1899	Jan. 13, 1900	18	431
Wagont No. 146 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	73
[1345]				

Notice of Location	Date	Recorded—Mining Records	Book	Page
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Wagont No. 147 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	74

1694 *The Southern Pacific Co. et al. vs.*

Wagont No. 148 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	74
Wagont No. 149 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	75
Jennie Landess No. 1 SW $\frac{1}{4}$				
	Jan. 25, 1900	Feb. 4, 1901	33	306
O. C. Cather No. 1 NE $\frac{1}{4}$				
	Jan. 25, 1901	Feb. 4, 1901	33	314
J. A. Watkins No. 1 NW $\frac{1}{4}$				
	Feb. 12, 1901	Feb. 18, 1901	34	251
Thomas O'Brien No. 2 SE $\frac{1}{4}$				
	Feb. 12, 1901	Feb. 18, 1901	34	254
Sultan No. 3 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	113
Sultan No. 10 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	114
Sultan No. 9 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	114
Sultan No. 4 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	115
Beanfield No. 5 SE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	55
Beanfield No. 6 NW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	56
Beanfield No. 7 NE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	56
Beanfield No. 8 SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	57

MEMORANDUM ABSTRACT

of all Notices of Location of Mining Claims recorded
in the office of the County Recorder of the County of

Kern, State of California, during the years 1899 to 1906, both years inclusive, affecting or in any way relating to Section 33, in Township 30 South, Range 23 East, Mount Diablo Base and Meridian, in the County of Kern, State of California. [1346]

Notice of Location	Date	Recorded—Mining Records	Book	Page
Rajah No. 9 NW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	253
Rajah No. 10 NE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	254
Rajah No. 12 SE $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	255
Rajah No. 11 SW $\frac{1}{4}$				
	Dec. 14, 1899	Dec. 15, 1899	18	255
NW 33 NW $\frac{1}{4}$				
	Dec. 13, 1899	Dec. 19, 1899	18	402
SW 36 SW $\frac{1}{4}$				
	Dec. 13, 1899	Dec. 19, 1899	18	402
SE 36 SE $\frac{1}{4}$				
	Dec. 13, 1899	Dec. 19, 1899	18	402
NE 36 NE $\frac{1}{4}$				
	Dec. 13, 1899	Dec. 19, 1899	18	403
Wagont No. 154 NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	77
Wagont No. 155 NW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	78
Wagont No. 156 SW $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	78
Wagont No. 157 SE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	30	79

White Horse NE $\frac{1}{4}$				
	Jan. 1, 1901	Jan. 2, 1901	24	431
W. S. Cather No. 2 SE $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 4, 1901	33	308
W. S. Cather No. 1 NW $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 4, 1901	33	310
O. C. Cather No. 2 SW $\frac{1}{4}$				
	Jan. 24, 1901	Feb. 4, 1901	33	312
Sultan No. 27 NW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	125
Sultan No. 28 SW $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	30	126
Look Out No. 2 NE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	370
Look Out No. 1 SE $\frac{1}{4}$				
	Jan. 1, 1903	Jan. 3, 1903	45	373
Beanfield No. 13 NW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	62
Beanfield No. 14 NE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	63
Beanfield No. 15 SW $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	63
Beanfield No. 16 SE $\frac{1}{4}$				
	Jan. 1, 1905	Jan. 17, 1905	55	64
.				
				[1347]

Dated at Bakersfield, California, this 14th day of
September, 1912.

The Kern County Abstract Company,
By H. C. Yates,
 Secretary.

(Seal)

The Kern County Abstract Company
Incorporated
Mar. 29, 1895
Bakersfield, Cal.

[1348]

LOUIS V. OLCESE

Forty-sixth Witness for the Plaintiff.

Bakersfield, California, September 17, 1912.

DIRECT EXAMINATION.

My name is Louis V. Olcese and I am a stockholder in the Ardizzi-Olcese Company, which leases land from the Southern Pacific Railroad Company for grazing purposes.

I have lived in Kern County for 25 years and have been leasing land from the railroad company about that length of time. My company now holds a lease from the railroad company for 70534.56 acres of land, including land in Township 30-23, for which we pay a rental of about four cents an acre. We hold other leases from the railroad company, the aggregate amount of land under lease by us being nearly 320,000 acres.

We use some of these lands ourselves and sublet others. Whether or not there is green grass on the land depends entirely on the rains. If it does not rain, we get no green grass. As a rule, however, we ought to get some vegetation in January. The highest price we pay for grazing purposes is ten cents an acre and the lowest price about two cents an acre. I think I have paid the same price every year. The fol-

lowing is a copy of the lease from the Southern Pacific Railroad Company to our company :

Form 3385-A LOCAL

(12-6-10-5M-S2596)

LEASE NO. 1418-D V-35-29-21

THIS LEASE, made in duplicate this 15th day of December, 1911, by and between SOUTHERN PACIFIC RAILROAD COMPANY, a corporation, hereinafter for convenience called LESSOR, and ARDIZZI-OLCESE COMPANY, INCORPORATED, of the County of Kern, State of California, hereinafter for convenience called LESSEE;

WITNESSETH: That Lessor, for and in consideration of the sum of Twenty-eight hundred Twenty-one & 38/100 (\$2821.38) [1349] Dollars, to it paid, receipt whereof is acknowledged, and in further consideration of the covenants and agreements to be kept and performed by Lessee as hereinafter written, does by these presents, lease unto Lessee, for the purpose of GRAZING only, but for no other purposes whatsoever, the following described land, situated in the County of Kern, State of California, to wit:

E-1/2 of Sec. 35 (ex. R/W to Producers Transportation Co.)T. 29 S., R. 21 E.,
All Sec. 1 (ex. R/W to Producers Transportation Co.).....

Lots 1, 4, 9, & 10 in Sec. 11,T. 30 S., R. 21 E.,

W-1/2 of Sec. 5; all Sec. 7; N-1/2,

SW-1/4 & W-1/2 of SE-1/4 of Sec. 17;

All Secs. 19, 29, 31; S-1/2 of NW 1/4, SW-1/4

& S- $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 33,.....T. 28 S., R. 22 E.,
W- $\frac{1}{2}$ & SE $\frac{1}{4}$ of Sec. 3; All secs. 5, 7, 9,
W- $\frac{1}{2}$ & SE $\frac{1}{4}$ of Sec. 11; W- $\frac{1}{2}$ & W- $\frac{1}{2}$ of
SE- $\frac{1}{4}$ of Sec. 13 (ex. R/W to Producers
Transportation Co.).....All Secs. 15,
17, 19, 21 & 23 (ex. R/W to Producers
Transportation Co.); All Secs. 25 & 27 (ex.
R/W to Producers Transportation Co.); All
Secs. 29 & 31, 33 (ex. R/W to Producers
Transportation Co.) & All Sec. 35,..T. 29 S., R. 22 E.,
All Secs. 1, 3, 5 (ex. R/W to Producers
Transportation Co.); NE- $\frac{1}{4}$, S- $\frac{1}{2}$ of
NW- $\frac{1}{4}$, E $\frac{1}{2}$ of NE- $\frac{1}{4}$ of NW- $\frac{1}{4}$, E- $\frac{1}{2}$
of W- $\frac{1}{2}$ of NE- $\frac{1}{4}$ of NW- $\frac{1}{4}$, E- $\frac{1}{2}$ of
NE- $\frac{1}{4}$ of SW- $\frac{1}{4}$, W- $\frac{1}{2}$ of SW- $\frac{1}{4}$, S- $\frac{1}{2}$
of SE- $\frac{1}{4}$ of SW $\frac{1}{4}$; SE- $\frac{1}{4}$ of Sec. 7
(except 1,37 ac. leased to Assoc. Pipe
Line Co; .35 ac. R/W to Standard Oil [1350]
Co. & 3.16 ac. R/W to Producers Trans-
portation Co.); All Secs. 9, 11, 13,
15, N- $\frac{1}{2}$, N- $\frac{1}{2}$ of SW- $\frac{1}{4}$, N- $\frac{1}{2}$ of
SE- $\frac{1}{4}$, W- $\frac{1}{2}$ of SW- $\frac{1}{4}$ of SE- $\frac{1}{4}$ &
SE- $\frac{1}{4}$ of SE- $\frac{1}{4}$ of Sec. 17 (ex. .56
ac. R/W to Standard Oil Co.); N- $\frac{1}{2}$,
E- $\frac{1}{2}$ of SW- $\frac{1}{4}$ & SE- $\frac{1}{4}$ of Sec. 21
(ex. McKittrick Town Lots); All Secs.
23, 25; NE- $\frac{1}{4}$, N- $\frac{1}{2}$ of NW- $\frac{1}{4}$, SE- $\frac{1}{4}$
of NW- $\frac{1}{4}$ & SE- $\frac{1}{4}$ of Sec. 27; All Sec.
33 (ex. 2.67 ac. R/W Standard Oil Co. &
2.62 ac. R/W to Producers Transportation

Co.) ; N- $\frac{1}{2}$ & SE- $\frac{1}{4}$ of Sec. 35,.....T. 30 S., R. 22 E.,
NE- $\frac{1}{4}$ of Sec. 15 ; NE- $\frac{1}{4}$ of Sec. 23

(ex. R/W to Producers Trans. Co.) ;

NE- $\frac{1}{4}$ of Sec. 25 (ex. R/W to Producers

Trans. Co.)

T. 31 S., R. 22 E.,

S- $\frac{1}{2}$ of NE- $\frac{1}{4}$, NW- $\frac{1}{4}$ & S- $\frac{1}{2}$ of

Sec. 19 ; N- $\frac{1}{2}$ of SW- $\frac{1}{4}$ of Sec. 29 ;

S- $\frac{1}{2}$ of Sec. 31 ; S- $\frac{1}{2}$ of N- $\frac{1}{2}$ &

S- $\frac{1}{2}$ of Sec. 33,-

T. 29 S., R. 23 E.

SW- $\frac{1}{4}$ of Sec. 1 ; All Secs. 3, 5, 7, 9, 11,

13,15,17,19,21,23,25,27,29,31,33 & 35. T. 30 S., R. 23 E.

All Secs. 5, 7, 9, S- $\frac{1}{2}$ of Sec. 13, All

Sec. 15 ; E- $\frac{1}{2}$ of Sec. 17 ; All Secs. 21,

23, 25, 27. All Sec. 29 (ex. 2.39 ac.

R/W to Standard Oil Co.) ; All Sec. 33

(ex. R/W to Standard Oil Co.) ; All Sec. 35

T. 31 S., R. 23 E.,

All Sec. 1 (ex. 30.92 ac. Deeded to

Standard Oil Co. & .06 ac. R/W to

Standard Oil Co.) ; All Sec. 3 (ex. R/W

to Standard Oil Co.) ; N- $\frac{1}{2}$ of Sec. 5 [1351]

(ex. R/W to Producers Trans. Co.) ;

All Sec. 11,.....T. 32 S., R. 23 E.,

S- $\frac{1}{2}$ of N- $\frac{1}{2}$ & S- $\frac{1}{2}$ of Sec. 7 ; All

Secs. 17, 19, 21, SW- $\frac{1}{4}$ of NE- $\frac{1}{4}$,

NW- $\frac{1}{4}$ of NW- $\frac{1}{4}$, S- $\frac{1}{2}$ of NW- $\frac{1}{4}$ & S- $\frac{1}{2}$

of Sec. 23 ; All Secs. 25, 27, 29, 31, & 35

T. 30 S., R. 24 E.,

SW- $\frac{1}{4}$ of Sec. 7 ; All Sec. 15 (ex. 1 ac.

R/W to Standard Oil Co.) ; All Secs. 17,

19; All Sec. 21 (ex. 1.62 ac. R/W to Standard Oil Co.) ; All Secs. 25, 27, All Sec. 29 (ex. 2.20 ac. R/W to Standard Oil Co.) ; All Sec. 31 (ex. 2.71 Ac. R/W to Standard Oil Co.) ; All Secs. 33 & 35

T. 31 S., R. 24 E.,

All Secs. 3, 5; All Sec. 7 (ex. R/W to Standard Oil Co.) ; All Secs. 9, 11, 13, 15, 17 (ex. to Standard Oil Co.) ; All Sec. 19 (ex. 14.17 ac R/W to Sunset Western Ry. Co. & 2 ac. occupied by warehouse & storage yard of Assoc. Oil Co. & R/W to Producers Trans. Co.) ; All Sec. 21 (ex. R/W to Standard Oil Co.) ; All Secs. 23, 25, All Sec. 27 (ex. 20 ac. for Pumping Station of Standard Oil Co. & R/W to Standard Oil Co.) ; All Sec. 29 (ex. R/W to Producers Trans. Co. & Ex. 2.89 ac. R/W to Sunset Western Ry. Co.) ; All Sec. 33 (ex. 13.45 acres R/W to Sunset Western Ry. Co. & R/W to Producers Trans. Co.) ; All Sec. 35.....T. 32 S., R. 24 E., Mount Diablo Base and Meridian, containing 70,534.-56 acres, more or less, with the appurtenances, for the period from December 1st, 1911, to November 30th, 1912; [1352]

EXCEPTING AND RESERVING: All that portion of the above described land lying within two hundred (200) feet on each side of the center line of any or all main line or branch line railroad tracks

of Lessor, or of any other railroad companies, now or hereafter constructed upon or adjacent to the said premises; also the right to use all water, needed for the operation of its railroad, which rises upon, or flows across, said land, and the necessary right of way for the conduct of water across said land in pipes, or otherwise, for railroad uses; also the right to construct, operate and maintain railroad, telegraph, telephone and electric pole lines, oil pipe lines and water pipe lines; also the exclusive right to enter upon the said leased land and prospect for water, oil coal or other minerals, and to mine the same if found, and to appropriate so much of the ground hereby leased as may be required for the discovery, development, production, storage and removal of such water, oil, coal or other minerals; all of which said exceptions and reservations shall inure to the benefit of Lessor, its successors or assigns.

THE LESSEE HEREBY COVENANTS AND AGREES: That Lessee will not prospect for oil, coal or other minerals on said land, nor mine or remove the same if found; nor quarry or remove stone therefrom; nor commit any waste thereon; nor remove any earth or soil; nor destroy, cut or remove any timber, trees or firewood standing or lying thereon; nor permit others, without authority from Lessor, to commit any of said acts.

That Lessee will not hold Lessor, nor Southern Pacific Company, liable for any loss or damage by fire, water, wreck or other casualty, occurring upon

the premises hereby leased, arising from the existence, maintenance or operation of any Railroad, owned or operated by said Companies, or either of them, whether occurring through any fault or negligence of said companies, or either of them, or their employes, or by reason of [1353] any imperfections of the railroad, roadbed or equipment operating thereon.

That Lessee will not assign this Lease, or sublet the whole or any part of the property hereby leased, unless written permission of Lessor be first had and obtained.

That Lessee will not break out nor farm any portion of the leased premises without written permission so to do is first had and obtained from Lessor; that at the date hereof there is no cultivated land upon said leased premises, nor any land in suitable condition for cultivation.

That in case Lessee shall, without the written consent of the Lessor first had and obtained, plant any crops upon the land herein described, Lessee shall forfeit all right and interest in and to such crops at the option of the Lessor.

That failure by Lessee to keep and perform any agreement or condition of this Lease shall operate as a forfeiture of the same, and Lessor may thereupon declare this Lease terminated, and take possession of said leased premises, together with all the improvements which may be thereon, without tender, notice or demand.

That at the termination of this Lease either wholly or in part, whether at the expiration of the full term or at any earlier time as herein provided, Lessee will surrender and deliver unto Lessor the quiet and peaceable possession of that portion of said leased premises as to which the Lease shall be terminated.

That in case Lessor shall bring suit to compel performance of, or to recover for breach of, any covenant, agreement or condition herein written, Lessee shall and will pay to Lessor reasonable attorney fees in addition to the amount of judgment and costs.

That upon being notified to exterminate and destroy rodents as required by the Legislative enactment of the State of [1354] California, approved March 13, 1909 (Act 2506-A, General Laws of California), Lessee will immediately advise Lessor of the quantity of poisoned grain necessary for the land herein described, and within ten (10) days after receiving poisoned grain from Lessor, Lessee will properly distribute the same over said land.

IT IS MUTUALLY AGREED: That Lessee shall and will keep in repair all buildings, fences and other improvements now upon the land, which are the property of Lessor, and upon the termination of this Lease leave the same in as good repair as they now are, ordinary wear expected; that Lessee may, at or before the termination of this lease, remove from the said premises any other

buildings, fences or improvements which may have been constructed thereon by, and at the cost and expense of, Lessee; provided no default shall at such time exist in respect of any payments or rentals, or in respect of any covenants, agreements or conditions to be kept and performed by Lessee.

That in case said land, or any portion thereof, shall during the term of this Lease, be by Lessor sold or leased for agricultural purposes, or required for its own use or benefit, it may terminate this lease as to such lands on ten (10) days' notice in writing mailed to Lessee at Kern, California; and that upon such termination of the Lease, or any portion thereof, Lessor will refund, and Lessee will accept, the pro rata amount of the rental for the unexpired term of the Lease (provided that if such amount shall be less than One Dollar (\$1) no refund shall be claimed or made), and will at and upon such termination quietly and peaceably vacate, and surrender possession of, said premises.

That in case Lessee shall (except by Lessor) be lawfully deprived of the possession of said premises, or any part thereof, Lessee shall notify Lessor in writing, setting forth in full the circumstances in relation thereto, whereupon Lessor may, [1355] at its option, either install Lessee in possession of the said premises, or refund to Lessee the pro rata amount of the rental for the unexpired term of the Lease, from and after the receipt of such notice, computed upon the number of acres the use whereof

Lessee is so deprived, whereupon no claims for damages of whatsoever kind or character incurred by Lessee by reason of such dispossession shall be chargeable against Lessor.

That time and specific performance are each of the essence of this Lease.

IN WITNESS WHEREOF, Lessor has caused its name to be hereunto subscribed by its Land Commissioner, thereunto duly authorized, and Lessee has hereunto affixed its name on the day and year first above written.

SOUTHERN PACIFIC RAILROAD COMPANY

By B. A. McAllister

Land Commissioner

ACCOUNTING DEP'T

Examined, found correct and registered:

C. P. Lincoln

ARDIZZI-OLCESE COMPANY,
INCORPORATED,

Lessee.

By Louis V. Olcese

Pres.

Checked by

Correct.

JH HW ID

F. W. Haswell

LA

Chief Clerk Land Dep't

(Endorsed): GRAZING LEASE NO. 1418-D

SOUTHERN PACIFIC RAILROAD COMPANY

To ARDIZZI-OLCESE CO., INC., Kern, Cal."

[1256]

CROSS-EXAMINATION
OF
LOUIS V. OLCESE.

We first leased the land in the Elk Hills in 1909. Before that time I think it was leased to Miller & Lux.

After we graze our sheep on these lands, they are taken up into the mountains. This is the usual practice with sheep men in this country. They graze the sheep on the low lands in the Spring of the year and later on when the grass dries up they are taken into the higher country. They can't stay there after the grass is dry on account of the foxtail, and there is no water for them except you buy it and haul it, and that is too expensive.

The plaintiff rests. [1357]

E. J. MILEY, called on behalf of the defendants, having been first duly cautioned and solemnly sworn to testify the truth the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

By Mr. Lewers:

Q. What is your full name, Mr. Miley?

A. E. J. Miley.

Q. Where do you live, Mr. Miley?

A. Pasadena, California.

Q. And you have an office in Los Angeles, have you not?

A. Yes sir.

Q. Where is your office?

A. In the Trust and Savings Building, 918.

Q. And what is your business, Mr. Miley?

A. Oil Business.

Q. How long have you been engaged in the oil business?

A. Since the first part of the year 1900.

Q. And at the present time, with what companies, if any, are you connected?

The State Consolidated Oil Company.

Q. And what office do you hold in connection with that company?

A. President and Manager.

Q. And that is the company that has its office in the Savings & Trust Building in this city?

A. Yes.

Q. Are you acquainted with the McKittrick district?

A. Yes.

Q. When did you first go there?

A. In the spring of 1900.

Q. And will you state what connection you have had with that [1358] district in the way of development?

A. In the year 1900 I went in partnership with Joseph B Dabney, and we acquired some leases from Clarence Berry and others on section 29 in 30-22, just above the town of McKittrick, and we began operating, and drilled, I think, about ten wells in the year 1900 on that section, and in the year 1901 Mr. Joseph B. Dabney with E. Donahue and a man

named E. M. Wood acquired three sections in the Midway, Sections 19, 31-23 and sections 13 and 11, 31-22, and section 11 was turned over to the Silver Bow Oil Company, a Montana corporation, and we proceeded to drill a well on that Section 11.

Q. Were you connected with this oil company that you have just mentioned?

A. Yes; I was the field manager of the Silver Bow Oil Company, as well as a stockholder.

Q. By Mr. Mills: That Section 11 was in what township?

A. 31-22, and the well was located near the south-east corner of it. We drilled this well down 1425 feet and then abandoned it.

Q. By Mr. Lewers: What did you find in that well in the way of oil?

A. We struck about ten feet of tar sand at a thousand feet. It was tar; it was not productive of oil.

Q. Well, did you do anything further with that well after that?

A. Well, we drilled it down 1425 feet, and had some little showings of oil after that, but nothing to warrant us to try to operate it.

Q. And what did you do with it?

A. Abandoned it.

Q. When was that abandoned?

Mr. Mills: Objected to as immaterial when it was abandoned or whether it ever was abandoned. [1359]

A. I think we abandoned that in the spring of

1903, and moved the material and rig over on Section 19 of 30-22, the McKittrick district, and we put it up over a well that had been drilled down to about 800 feet, that is, we acquired a twenty-acre property in that Section 19, 30-22 and attempted to finish this well and another one that had been started on the property before we acquired it, and we had abandoned, in fact, both those wells on account of one of them was so badly “buggered up”, as we term it in the oil business—full of tools, and so forth—and the other one was an unproductive well. It had some oil, but it was heavy and would not justify us in operating it as a producing well. We then drilled three more wells on this property during that year of 1903, and shut the proposition down then as we had not gotten enough production to warrant us to operate, at the price of oil.

Q. By Mr. Mills—At the then price of oil?

A. Yes, at the then price of oil. In fact, we hadn't gone deep enough, so that they were not very good wells anyway. So, I then took the rig and material and so forth and went out prospecting on Section 10. Let's see, now, what township. 30-21. There I drilled a well to 1500 feet.

Mr. Mills—I want to interpose an objection for immateriality and irrelevancy to the history of the misfortunes of this witness in 30-21 and in Township 30-22, because I cannot at present see any bearing it has upon the issues involved in the case.

Q. My Mr. Lewers—You may nevertheless proceed, Mr. Miley.

A. This well on Section 10, 30-21, I drilled about 1500 feet, but got no oil. I then moved the rig over onto Section 11 of the same Township, 30-21, and there got some oil, got into oil sand, but the money ran out and the oil business was [1360] bad and I had to quit and abandon my location.

Q. When was that?

A. That was in 1904.

Q. Now, you may proceed.

A. During the years of 1905—Well, I made my abandonment there, I guess it was along in 1905, finally. And in 1906 and '07, I was not active in the oil work, except that I was interested in the original property on Section 29, 30-22, and also interested in the lands down in the Midway that I spoke of as Sections 19 and 13, 11. But we shut down our operations; in fact, didn't do much during the years of 1906 and '07.

Mr. Mills—Just a moment. I think the original question put to you, to which your answer should be responsive, was what connection you had with development in the McKittrick field.

A. Yes.

Mr. Mills—I don't know that you were asked for a catalog of your adventures in the field in the Midway and other places remote from this land in controversy, and I shall have to object.

Q. By Mr. Lewers—You may proceed with the

answer as you have given it. I desire you to explain your whole connection with the oil territory in the vicinity of McKittrick, including the Midway or any other territory in that vicinity.

Mr. Mills—Well, I again object to the question, or any answer to it, for the reason that it is wholly immaterial; and I move that the answer so far given be stricken from the record.

Q. By Mr. Lewers—You may proceed.

A. In January of 1908 we began operations on Section 11, 30-22, just south of where I drilled wells for the Silver [1361] Bow Oil Company in 1903.

Q. By Mills—What section was that?

A. Section 19, 30-22.

Q. On the same section you say you started?

A. Yes, in 1908, just adjoining the property I drilled on in 1903. And up to the present time we have drilled thirteen wells on that property, which now belongs to the State Consolidated Oil Company; and I am also connected with the Providence Oil Company, which is a trustee company of the Dabney Oil Company, and in 1909 I drilled a well on Section 29, 30-22, the location where I first did my operations in 1900. There I drilled a well 3520 feet deep, which we abandoned.

Q. By Mr. Lewers—Why?

A. We didn't get a producing well. And the State Consolidated Oil Company, of which I am

manager, is now drilling a well in the Bellridge district, Section 11, 28-20.

Q. By Mr. Mills—Section what?

A. Section 11, 28-20.

Q. Township 28-20?

A. Township 28-20; yes sir.

Q. By Mr. Lewers—Are you familiar with any portion of Township 30-23 in the Elk Hills?

A. Yes.

Q. When did you first become acquainted in any way with this territory?

A. Why, along in 1901, when I was drilling a well on Section 11, 31-22.

Q. And were you in the Elk Hills at any time prior to January 1st, 1905?

A. Yes.

Q. How frequently?

A. Why, along in the year 1901 and 1902, when we were [1362] operating on 11, 31-22, I used to drive over in there every once in awhile. Probably made altogether half a dozen trips around through that country in those years.

Q. For what purpose did you make those trips?

A. Well, I wanted to look the country over with the idea of what it might be worth for oil property.

Q. Did you make any locations in the Elk Hills at that time, at any time.

A. No. I think my name appears on some locations in Section 6, 30-22, and Section 4, 30-22, in the year 1909.

Q. But not prior to 1905?

A. No.

Q. Are you familiar with Section 26 of Township 30-22?

A. Yes.

Q. Did you know a Mr. Berry, the father of Clarence J. Berry?

A. Yes.

Q. Do you know whether he had any development or any construction of any kind in that section or at any other place in the way of oil rigs?

A. Why, he erected some oil derricks in the way of assessment work on that section along the year 1900.

Q. What became of them?

Mr. Mills—Objected to as wholly immaterial.

A. Why, they were abandoned, and blown down afterwards and hauled away for fire-wood.

Q. Br. Mr. Lewers—Was there any production of oil at that place?

A. No sir.

Q. Was there any oil discovered there?

A. No.

By Mr. Mills—When? When do you mean? [1363]

A. Never.

Q. Up to the present time?

A. Up to the present time.

Q. By Mr. Lewers—Were you living in McKit-trick at the time when this development was going

on that you have described, from 1900 up to 1903 and '04, Mr. Miley?

A. Yes sir; most of my time.

Q. Most of your time. What was the opinion of oil men at that time, if you know, prior to 1905, with reference to the Elk Hills being oil territory or not?

A. Why, it was never looked on as being classed worth spending money on in the development for oil at that time.

Q. Were there any locations made in there by anybody?

A. Yes; there were locations made all over the country.

Q. By what sort of men?

A. Why, men that followed up where discoveries of oil were made, or other mineral, and they go out and locate wherever there is any open land, with the idea that they might trade on their locations or perhaps something develop that would be beneficial to them at a later date.

Q. What is the term applied to that kind of locators? What are they called?

A. Why, I don't know what you would call them. "Wildcatters", I guess. I don't know what they are termed.

Q. Did any of those locators in the Elk Hills sink any wells prior to 1905, to your knowledge?

A. Not to my knowledge.

Q. Did you ever hear of any wells being sunk out there?

A. Not prior to 1909, to my knowledge.

Q. When was it that attention of oil men was first actually directed to the Elk Hills as to their oil possibilities?

A. Well, that country was not looked on as oil country at [1364] all by anybody that I talked with or come in contact with.

Q. Until when? Is it looked on as oil territory now?

A. Well, it is not looked on quite as favorably now as it was perhaps a year or so ago, because it is not looked on now, I don't believe, as being profitable oil territory at the present time.

Q. Well, when was it first looked upon as a prospective oil territory, even?

A. Well, that was, I guess, first, about 1909, to my knowledge, when the Honolulu brought in a well on Section 10, 32-24.

Q. What was the effect of that discovery by the Honolulu on the territory lying to the north and in the Elk Hills—the territory generally, as far as prospecting is concerned?

A. Why, that gave courage to people to take a chance out in there, and they "wild-catted"—made it look possible that there might be oil in that country.

Q. And what was the result?

A. The result was that there was a lot of rigs put in on all open land around there and arrange-

ments made with these locators to get on the ground, and quite a lot of development began after that all over the country there.

Q. Can you mention any companies that went in there into the Elk Hills as the result of that Honolulu excitement?

A. Well, Captain Barnadon and Tom O'Donnell formed the Barnadon Oil Company and put up rigs on a number of sections, that is, a rig on each quarter, but didn't do very much drilling—just put up these rigs to hold the ground; and the Esperanza, that was a Barnadon Company, did some drilling in the Elk Hills.

Q. Do you know in what section?

A. Yes; they drilled in 10, 31-24. They went down about [1365] 3500 feet.

Q. What did they get?

A. Didn't get anything. And then, of course, the Honolulu Oil Company drilled quite a bit out in there and got some oil; but they were more over on the Buena Vista Range, they didn't get so much out in the Elk Hills except down in 10. That was out pretty well.

Q. Do you know a company by the name of the Scottish Oil Company?

A. Yes.

Q. Where were they operating?

A. They operated on Section 30-23.

Q. In section 30, was it?

A. Yes.

Q. How deep did they sink?

A. They went down—I take that back. The Scottish drilled on 2, 30-23. They went down 4000 feet.

Q. What did they get?

A. They got some gas at about 2700.

Q. Did they get any oil?

A. No.

Q. What other companies operated in there and sank wells in Township 30-23 or in the immediate vicinity?

A. The Redlands Oil Company drilled a well on Section 30, the same township.

Q. By Mr. Mills—30-23?

A. 30-23. They went down 2830 feet. They got some gas at 1500, quite a lot of gas, but they got no oil. And the Associated Oil Company drilled on section 22 of this township, and in that well they went down 3000 feet, and it didn't amount to much.

Q. By Mr. Lewers—Did they get any oil in that well? [1366]

A. No; I don't think they got any oil in that well. They drilled another well on Section 24 of that Township, drilled it to a depth of 3850 feet, I believe, and they had some oil between 2700 and 3100 feet—they had an oil-bearing formation.

Q. Is that a producing well?

A. That well is a producing well, I understand. I have not seen the well operated myself. I have seen evidences of oil there, but I have never seen it operated, so I would not be able to judge how much it is good for as a producer, although I think it is a capac-

ity producer all right. They drilled another well on Section 26 of this Township; they went 4030 feet, and they went through some oil-bearing formation there down toward the bottom, and the well is probably good for, as I understand, about 20 barrels a day.

Q. By Mr. Mills—You say you understand. Do you know, Mr. Miley, what it is good for, of your own personal knowledge?

A. Why, I have not seen the well pumped for a given time to know, but then I judge—

Q. Well, we are not asking what you judge, but I want to suggest that volunteering hearsay evidence is improper.

Mr. Lewers—You will have a chance to cross-examine, Mr. Mills.

A. Well, I see the oil in these different wells. I know the oil was there, and from what I have talked with men working on the wells—

Mr. Mills—I object to anything any men told you working on the wells. It is wholly improper here.

Q. By Mr. Lewers—Proceed, stating what you know of your own knowledge, Mr. Miley.

A. Well, I know they have oil in this well, of high gravity—better than 30 degrees.

Q. Do you know whether they have it in any quantity? [1367]

Mr. Mills—Of your own knowledge.

A. Well, I have seen enough of the well to know of my own knowledge that you could not figure on over twenty-five barrels a day for the well as a regular producer.

By Mr. Lewers—Would that amount of oil in a well of that depth be a profitable venture?

A. Not at the present price of oil, or any price that was ever got in California for that grade of oil.

Q. Now, were there any wells sunk by any other companies anywhere in that township? Do you know a company by the name of the Midway Pacific?

A. Yes; on 32.

By Mr. Mills—The Midway-Pacific, is it?

A. That is the Midway Pacific; Midway Pacific Oil Company.

Q. On 32?

A. 32, of 30-23.

Q. By Mr. Lewers—Did they sink a well?

A. I don't know anything about what they did.

Q. That is, you have no knowledge of their work in there?

A. No.

Q. Is the Elk Hills at the present time, particularly referring to Township 30-23, a producing oil territory?

A. No.

Q. You testified a few moments ago that it was looked upon more favorably perhaps a year ago than it is now. Why do you make that statement?

A. Well, the developments at that time that took place in part of the Midway field and working over that way, and the fact of the Honolulu's levelopment on Section 10, and those that began drilling along other parts of the Elk Hills—their formation was encouraging, and during that stage, until they got down

far enough to test out the territory, why it looked pretty good. [1368] But after they finally tested it out and tested these sands that they expected to be good producing sand, it didn't materialize as they expected.

Q. And is that the reason why you say the opinion is now less favorable than it was?

A. Yes; that is my reason.

Q. Now, in 1900, up to 1905, what was your impression as to where the oil-bearing formations were in the vicinity of McKittrick?

Mr. Mills—That is objected to because the witness has not qualified himself to answer the question, so far, in his testimony.

A. Why, along the hills in back of the town of McKittrick, on Sections 29, 20 and 19, and 30-22 and 13, 30-21, there is an outcrop of oil-sand and oil seepage, and that same cropping extends to the southeast down as far as Sections 3, 31-22; and we like to stay pretty close to those outcrops and seepages.

Q. By Mr. Lewers—Why was that? What was the general belief at that time as to the general extent of the oil territory?

A. Well, the developments up to that time had—the opinion was, in regard to development, up to that time, that if you got away from those seepages, you got out of the oil zone or it was so deep you could not reach it.

Q. What was the general opinion at that time, as far as you know, as to getting out away from the hills

into the flats, toward the Elk Hills, for the purpose of getting oil?

A. Well, that would be regarded as rank "wild-catting".

Q. Now, you have referred to some work and development down in the Midway that was undertaken by one of your companies. Will you state again when it was that you went down into the Midway?

A. In the year 1901. [1369]

Q. And how far from the hills was that location?

A. That well was located right on the edge of the hills that run through Section 11. In fact, we were in little toe-hills yet with that well. But if we had gone much further to the southwest, we would have been out in the flat; and that extension we were on there was looked on as being an extension of the McKittrick field.

Q. Is that the reason you went there?

A. Yes.

Q. Was there any development at that time or any prospecting going on out in the flat in what is now known as the Midway?

A. There was a well being drilled on Section 30, 31-23 by the Transfer Oil Company.

Q. When was that being drilled?

A. About the same time that we were drilling our well on Section 11; 1901 and '02.

Q. Did those people find any oil?

A. No.

Q. How deep did they go?

A. About between 1250 and 1300.

Q. And do you remember any comment being made by any men known to you to be competent and practical oil men, with reference to drilling at those places that you have last mentioned, or anywhere in that Midway flat?

A. Well, there was not much drilling going on in that flat that early. Of course there was some drilling going on there a few years later that I heard several comments on.

Q. When was that that drilling was going on?

A. In the latter part of 1907 and '08.

Q. And what was the comment that you heard on that?

A. Why, that they were blowing in their money—to that effect—they were rank “wild-catters”. They felt sorry for [1370] them out there, wasting their money in that flat.

Q. And by what sort of individuals was that comment made; that is, in what business?

A. Well, I have heard men like Tim Spellacy, who at that time had property up on the 25 Hill, which is south of the Midway district, south of the center of the Midway field. Such men as Spellacy and people that were operating up in there on that hill, they used to look down on us fellows in the flat that had anything, as taking a pretty long chance, playing pretty much of a sucker game.

Q. And who is Tim Spellacy?

A. He is interested in a number of oil companies, oil properties, in the Midway field, Mascot in the

25 Hill, and several other companies; and also in the Coalinga field—a man that has been in the business all his lifetime, I guess.

Q. Is he a practical oil man?

A. Yes.

Q. And do you know whether or not he has been a successful oil man?

A. He has.

Q. What was the general opinion, prior to the discovery of the Honolulu well, as to sinking wells away from the line of the hills; that is, what was the opinion as to prospecting out toward the Elk Hills and out toward the Buena Vista Hills?

A. Well, that was not looked on as good judgment, to get out in there for oil.

Q. What was the belief at that time as to the depths that you would have to go if you got away from the hills?

A. Well, it would be so deep that there was no practical means of getting down deep enough to reach oil.

Q. And what was the general belief at that time amongst oil men that you associated with or that you heard discuss that [1371] country, as to the Elk Hills being a prospective oil territory or not?

A. No; it was not looked on as becoming an oil territory.

Q. And you say that attention of oil men was first really directed to it at what time?

A. When the Honolulu came in; around that

time. That must have been about the latter part of 1908 and the beginning of 1909, to my knowledge.

Q. Were you acquainted with Professor Josiah Owen in his lifetime?

A. Yes.

Q. And where were you acquainted with him? Where did you see him?

A. I met him first in McKittrick.

Q. Did you ever have any conversation with him with reference to sinking wells in any portion of that territory in the vicinity of McKittrick?

A. Yes; I used to meet Mr. Owen pretty often and discuss the possibilities of oil through there.

Q. Did he ever say anything to you with reference to the Elk Hills?

A. No.

Q. What territory did he discuss with you as to its oil possibilities?

A. Well, the territory in around where we were operating, Section 11, 31-22.

Q. And what did he say to you with reference to that?—in substance, if you cannot give his exact language?

A. Section 11, 31-22.

Q. Yes.

Mr. Mills—That is objected to as immaterial:

Q. Where was this, in the first place, that you are talking [1372] about?

Mr. Lewers—Just a moment. You will have your opportunity to cross-examine.

Mr. Mills—I always have an opportunity to cross-examine a witness as to qualifications to state what a man told him, before you ask the question. You have never laid the foundation of the persons present, or the time, or the place where it took place.

Mr. Lewers—I don't have to.

Mr. Mills—I think you do have to.

Mr. Lewers—I am aware of no such rule.

Mr. Mills—Well, that is the rule on testimony of that kind.

Mr. Lewers—I am not seeking to impeach anybody.

Mr. Mills—That does not make any difference, whether you are seeking to impeach or not. I am entitled to know where this conversation took place, and the precise time of it as nearly as the witness can fix it, and who was present.

Q. By Mr. Lewers—You may proceed and state what that conversation was.

Q. By Mr. Mills—Well, I will ask the witness to state first whether anyone was present at the time this conversation took place, and if so, whom.

A. I don't recall of anybody being present.

Q. And whereabouts did it take place?

A. Why, we had several conversations.

Q. Well, that particular one.

A. Well, this one, at Section 11. It was right at the well.

Q. In Section 11?

A. Section 11, 31-22.

Q. And about what date?

A. It was about, I think, the first part of 1902.

[1373]

Q. That is as nearly as you can fix it?

A. Yes.

Mr. Mills—Very well.

Q. By Mr. Lewers—You may proceed. State what those conversations were.

A. Well, this conversation relative to Section 11, 31-22, he said that he thought we would get oil there if we went deep enough, but he thought we ought to have drilled on the other side of our section. We were drilling at the southeast corner, and he liked it better a little back on the hills toward McKittrick. This strike, as he figured it, went sort of diagonally across the section.

Q. Did he explain why he thought it was better to drill on the other corner of the section toward the hills?

A. Well, we were getting out on the edge of the oil strata there where we were drilling.

Q. Now, did you have any other conversations with him with reference to any other wells?

A. Yes. I talked to him regarding a well that we were drilling on Section 10.

Q. 30-21.

A. 30-21.

Q. What did he say about that?

Mr. Mills—That is objected to as immaterial to any of the issues of this case.

A. Why, he stated that I should not have abandoned that well when I did; if I had gone two or three hundred feet deeper, I would have gotten oil.

Q. By Mr. Lewers—Well, do you know whether anybody ever did drill on that place any deeper than you did?

A. Yes; there was a well drilled very close to that location, on Section 3, adjoining section, on the same strike; [1374] drilled to about 2600 feet.

Q. When was that done?

A. That was started in the latter part of 1908 and I think finished up in 1909.

Q. And by whom was that well drilled?

A. The Associated Oil Company.

Q. Did they get anything?

A. No.

Q. Were there any other wells drilled in that vicinity?

A. Yes; there were other wells drilled all around there.

Q. Did any of them produce anything?

A. There was no producing wells brought in beyond the East Puente's holdings on Section 11, 30-21; nothing brought in that was profitable to produce, to operate.

Q. Then, up to the present time, has there been any oil produced from that vicinity where you sank your well in Section 10, 30-21?

Mr. Mills—That is objected to as wholly immaterial, it appearing that the land is some eight or ten

miles away from the lands in controversy in the jammed-up eastern flank of the Temblor Range?

Q. By Mr. Lewers—Answer the question, please. Read it. (Last question read by the Special Examiner.)

A. No.

Q. At the present time, Mr. Miley, is there any oil being produced from any portion of Township 30-23, to your knowledge?

A. No; none being produced now.

Q. And where is the nearest point to that from which oil is now being produced?

A. Well, to the nearest point would be Section 19, 31-23, and Section 13, 31-22.

Q. And when were those wells sunk, if you know?
[1375]

A. In section 19, 31-23, the first producer was brought in—I think they actually got to producing in 1910. They were in oil there, they knew they had oil, in 1909, but I don't think they got the production out of it until 1910.

Q. Was there any oil being produced there prior to 1905?

A. No.

Q. Now, prior to January 1st, 1905, as nearly as you can fix it from your knowledge of the country, where was the nearest place where oil was being produced with reference to the Township 30-23?

A. The McKittrick, in Section 29, 30-22.

Mr. Lewers—You may examine.

CROSS-EXAMINATION
OF

E. J. MILEY.

By Mr. Mills:

Q. Mr. Miley, you have testified here to numerous wells which were abandoned because of failure to strike oil or for one cause or another. You have not, however, testified to any producing wells in the McKittrick district. Was it your desire to have the impression go upon the record in this case that you want to present a doleful picture of the McKittrick field as an oil business?

A. No sir; not at all.

Q. You recognize, do you not, notwithstanding the catalog of misfortune which you have related here this morning, that the McKittrick is regarded by oil men as the best field in the world, don't you, by those who are competent to know what they are talking about? Is not that true?

A. Well, I can't say that, I can't say that I do know that.

Q. Well, you do know that as a fact, don't you?

A. That it is the best field in the world? [1376]

Q. Yes; the best field in the world.

A. The McKittrick?

Q. Yes.

A. In what way the best?

Q. In every way as an oil producing field. I speak of the McKittrick field in so far as you have led us in your peregrinations around that field from Midway to 31-22.

A. I can't say that I know that the McKittrick is the best field in the world.

Q. Well, don't you know that competent geologists have so designated that field—as the most wonderful oil field that has ever been discovered in the history of the world?

A. Well, I would not go very much on geologists' reports of those fields, because they cannot tell you where the oil is.

Q. They can't tell you?

A. No sir.

Q. You are not a geologist, evidently?

A. Not at all; but I have been practical enough in the business to know—

Q. Confine yourself, if you can, to a response specific to my question.

Mr. Lewers—Finish your answer.

A. (Continuing)—to know that you can only determine where the oil is by drilling.

Q. By Mr. Mills—Now, did I ask you anything about geologists at all?

A. Yes; you asked—

Q. I spoke about competent oil men, didn't I? Oil men. Didn't I use those words?

A. No; you said geologists, too.

Q. Well, I spoke of geologists publishing bulletins, or their published reports; but I am speaking now of competent oil [1377] men, practical oil men. Now, will you answer my question?

Mr. Lewers—What is your question?

Mr. Mills—The witness probably knows. I am not asking you the question. Just read the question.

(Question read by the Special Examiner, as follows: “You recognize, do you not, notwithstanding the catalog of misfortunes which you have related here this morning, that the McKittrick is regarded by oil men as the best field in the world, don’t you, by those who are competent to know what they are talking about? Is not that true?”)

A. Well, I can’t say that I know that it is regarded as the best field in the world. I know that the wells there are cheap to drill on the oil zone there that we have defined by actual drilling, and that they are good producers.

Q. Well, what would you characterize that field as in comparison with other successful fields that you know of, taking the duration of time for which it has been a producing field, the quantity of oil that is being produced, the number of wells now down in that field, from 30-21 to Midway.

A. Section 11, 30-21, you say?

Q. Yes; from north of McKittrick down to Midway.

A. Why, I consider it a very profitable field.

Q. Well, how does it compare, in your mind, with other fields that you have known in your lifetime as an oil man?

A. It is classed up as a very good field, and—

Q. Do you know of any better field, in your own experience, than that field, which you have con-

demned here by reciting the facts that you did this morning?

A. Well, I didn't altogether condemn the field. I condemned the—The McKittrick field, like any field, you have to do a lot of prospecting.

Q. You don't want it to appear you condemned it? [1378]

A. I didn't condemn the field.

Q. You didn't want to destroy the hopes of those oil men who invested money there, but you simply wanted to recount in this record some of the abandoned wells? Is that it.

A. No.

Q. Now, isn't it a fact, to be fair and frank on the record here, that you could, if you were asked the question, fairly recite a great number of successful wells in the McKittrick field?

A. Why, I have some there myself.

Q. You didn't tell about any of those, did you, this morning, in direct examination?

Mr. Lewers—I object to this manner of examination as not being proper cross-examination, as the attention of the witness was directed to certain outlying portions of territory as indicating the development and what development had taken place there, and there was no attempt to go into the question of what was in the McKittrick field proper, whether it was successful or unsuccessful, and that it is an unfair assumption and placing the witness in a false position for counsel to assume that.

Mr. Mills—I want to treat the witness as fairly as I may under the circumstances. I think he tries to be fair in this examination.

Q. You have no complaint to make of my examination, have you?

A. No sir.

Q. We are perfectly good friends, aren't we?

A. Started out so.

Mr. Mills—Certainly. Don't be over-zealous. Mr. Miley will take care of himself.

Q. Now, when you refer to Mr. Spellacy referring to you and other associates of yours who were endeavoring to bring in a well upon what you call the flat, or beyond the relation of the range, [1379] as "suckers", did you hear Mr. Spellacy call you a sucker at that time?

A. Yes; I heard Mr. Spellacy express that to me.

Q. That you were a sucker?

A. Yes.

Q. And that was because you went down on the flat, was it, or was it because you were unsuccessful?

A. No; it was because we were drilling in a place where in his judgment, he thought we would never get any oil.

Q. Now, some very fine wells have been produced, however, on the flats, haven't they?

A. Yes sir: There have been wells, in the last few years, brought in on the flats.

Q. And who appears now to be the "sucker"?

A. Of course the tables were changed.

Q. So that, if you had kept on with your operations and drilled further, you would have proved that the allegation was wrong and the "allegator" ought to be defied?

A. We have got some oil out in there now, you know, that we have got in the last few years.

Q. You say you were acquainted with Mr. Owen?

A. Yes.

Q. What was Mr. Owen at that time? What position did he hold?

A. Well, he was connected with the Southern Pacific in the geological department.

Q. And was he operating in the field there for the Southern Pacific Company or any of its allied companies? I mean by "operating", was he working there as a geologist?

A. He came there first to make a report on that McKittrick field there, the outlying country.

Q. Now, I don't know whether I made myself clear or [1380] whether you don't make yourself clear. Read the question. (Preceding question read by the Special Examiner.)

A. Yes.

Q. For the Southern Pacific Company?

A. Yes sir.

Q. How long a time did you know him, Mr. Miley?

A. Well, I knew him from the time I first met him there in McKittrick up until the time he died. I used to meet him from time to time.

Q. And you met him about what year?

A. That was about 1902.

Q. Do you know when he died?

A. Yes. I think it was about two years ago.

Q. So that you knew him during the whole time that he was working as a geologist for the company in that field?

A. Yes.

Q. The Southern Pacific Company had some confidence in his judgment, did they not, so far as you know?

A. Why, I don't know anything about it, except that he was working for them during that period.

Q. You had the impression, however, that they had confidence in his judgment, didn't you?

A. Yes; certainly.

Q. Were you acquainted with an associate of Mr. Owens by the name of E. T. Dumble, now the chief consulting geologist of the Southern Pacific Company?

A. I just knew him casually. I met him a few times.

Q. Have you seen him out in the field there, the McKittrick field?

A. Yes.

Q. When did you first see him in the McKittrick field?

A. Well, I don't know. I couldn't say as to that.
[1381]

Q. About the time you saw Mr. Owen the first time?

A. I don't think I saw him as early as that to know him.

Q. Could you tell somewhere near the time that you first saw Mr. Dumble in or around McKittrick?

A. I don't think that I met Mr. Dumble to know him until about 1908.

Q. You don't know, then, whether he was in the field before that time or not?

A. I couldn't say to that; no.

Q. Did you know a man by the name of J. B. Treadwell?

A. Yes.

Q. What was he doing up there at the time you knew him?

A. Why, he was representing the Southern Pacific Oil interests.

Q. And when did you first meet him, Mr. Miley?

A. 1900.

Q. What point was he operating from? Where did he have his office?

A. I am not sure but what he had his main office over in the Kern River field, because that is where they were operating very extensively.

Q. Did you see him over around McKittrick a great deal?

A. Oh, yes.

Q. What was he doing when you saw him?

A. He was looking after their oil developments, interests, there.

Q. Do you know whether he at that time had any

lands in his own name, in the name of J. B. Treadwell, around there?

A. Yes.

Q. You have seen his name there on maps?

A. Yes.

Q. Did you know then, or do you know now, that he was [1382] operating in lands for his principal, the Southern Pacific Company, under the guise of the use of moneys of his own?

Mr. Lewers—I object to this line of examination, on the ground that it is not cross-examination of anything that was brought ou in direct.

A. No.

Q. By Mr. Mills—Now, did you have any confidence in the judgment of Mr. Treadwell as a practical oil geologist?

A. Why, I didn't know very much about his knowledge as a practical oil man, or a geologist, so far as that is concerned.

Q. Have you any confidence in the judgment of Mr. E. T. Dumble as an oil man and geologist?

A. I don't know anything about Mr. Dumble.

Q. Just barely met him? That is what you mean?

A. Yes.

Q. Did you ever come in contact with either Mr. Jewett or Mr. Blodgett, of the firm of Jewett & Blodgett, while you were there, in the early days?

A. Yes.

Q. Did you know Mr. W. E. Youle, another practical oil man, who has been in that field since 1889?

A. Yes; I knew Mr. Youle.

Q. Was Mr. Youle regarded as a good practical oil man?

A. Why, I can't say that he was.

A. Did you so regard him?

A. Why, I didn't know enough about him to pass an opinion, really.

Q. You didn't know as a matter of history that Mr. Youle had gone into that field in the earliest time of its development and that upon his judgment millions of dollars of money were invested down on those flats? Did you know that as an historical fact?

A. I know that he didn't spend any millions of dollars [1383] down on the flats.

Q. I didn't say that he spent millions of dollars, but that upon his judgment millions of dollars were spent.

A. No; I can't say that I did. His operations were confined up to the hills there in the outcrops along Sunset.

Q. You know, however, that he is regarded by oil men as a very keen, practical man of sound judgment in oil matters, don't you?

A. I can't say that I do.

Q. Have you any reason to feel differently towards him yourself?

A. Why, yes; I know that during his operations with Jewett and Blodgett in Sunset, during those early days there, he spent their money like a drunken sailor—which he was, most of the time.

Q. You say Mr. Youle was a drunken sailor most of the time?

A. Well, he used to keep pretty well loaded up with whiskey during the whole time of his operations out there in Sunset in the early days. That is his reputatiton all over the field.

Q. Did you know, as a fact, that Mr. Youle was a man of over fifty years' experience in the oil business in this country and that today he is retired, here, with a vast fortune which he has accumulated in practical oil work?

A. I don't know how much he has as a fortune.

Q. Have you ever had any trouble with Mr. Youle personally?

A. No.

Q. At page 1048 of the reporter's transcript in this case, Mr. W. E. Youle stated as follows: "I say a geologist will say of those hills toward the Elk Hills and that whole country 'there is a good oil territory,' but as to the depth I don't see how they can tell." Do you agree or disagree with that statement of Mr. Youle? [1384]

A. What year did he make that statement?

Q. That statement was made as of a time prior to January 1st, 1905.

Mr. Lewers—But the statement was made this year.

A. Yes; but I mean he referred to it as in what year?

Q. By Mr. Mills—Prior to January 1st, 1905.

A. Yes. Well, a man—I don't see where he had any foundation for making such a statement.

Q. The question was whether you agree with the statement.

A. I don't agree with it.

Q. You clash with distinguished authority, then. At page 1028 of the transcript, Mr. Youle also testified: "well, I will make the statement broad, and I will defy anyone to prove to the contrary: You show me an oil seepage and with proper development I will show you an oil field; and if you can find any instance it is not so, it is something I don't know of." Do you agree with that statement?

A. I don't agree with it.

Q. Do you know of any oil seeps in what is known as the Elk Hills?

A. I know of an outcrop over toward the Honolulu well, right where they drilled the well, on Section 10, That is all I know of.

Q. In 32-24?

A. 32-24. It is really a gas "blow-out" there on some outcropping.

Q. How extensive is it, Mr. Miley? You have visited the spot, I suppose?

A. Yes.

Q. How extensive is the evidence of the gas blow-out?

A. Oh, it just covers over, I would say, an acre there, probably, or so. [1385]

Q. Is there any evidence there of any waste of oil?

A. No. That is, it looks like it might have come

out there at some early day and dried up, maybe—gas blow-out.

Q. You have been over that field pretty extensively, haven't you, all around there?

A. Yes.

Q. In the Elk Hills, you say, half a dozen times?

A. Yes.

Q. Do you know of an oil seepage or gas blow-out in Section 32 of 30-24 in the Elk Hills?

A. No; I don't.

Q. Did you ever hear of it?

A. Why, I have heard that there was such a seep there, but I have never seen it—exposure.

Q. Do you know of any oil sands—What was your answer to that?

A. I said I have not seen it but I have heard there was such a one there.

Q. When did you first hear that?

A. I don't know. I have heard it spoken of different times.

Q. Well, can you remember about the first time you heard of it?

A. No: I cannot.

Q. Was it as early as 1901?

A. Why, it was around somewhere in that neighborhood, of 1902 or so; in there; 1901.

Q. Did you visit the oil seep yourself?

A. No; I never saw it.

Q. How close did you ever get to that oil seep in 32 when you went into the Elk Hills?

A. Well, I have been on Section 30, and I have been on [1386] Section 34, and 26, 22, and 20, and 24, to my knowledge, because I know those different wells.

Q. That is in 30-23?

A. 30-23.

Q. When did you first visit those sections you have described?

A. Well, I have driven over that section as early as 1901 or '02.

Q. And is that the only place in the Elk Hills that you have visited?

A. No; I have been over the whole range.

Q. At different times?

A. At different times.

Q. Do you know of any dry oil sands in Sections 18, 35 and 36, in Township 29-21, east?

A. No. What is that again?

Q. That is in Sections 18, 35 and 36 in 29— 21 east.

A. 21-29?

Q. Yes?

A. Oh, yes; sure.

Q. Do you know about those oil sands up there?

A. Yes; that is McKittrick; sure I know about that.

Q. That is McKittrick? 29-21 is McKittrick? Do you mean the McKittrick field or McKittrick—

A. Well, 29-21, you said, in Section—

Q. In Section 18, 35 and 26.

A. Wait a minute, now. 29-21.

Q. 18,35 and 36.

A. I don't know anything about 18. I know there is some—35, 18? I don't think that amounts to much in there. There is some little exposures in there.

Q. Well, you know of some oil sands there? [1387]

A. There is some little indications there, yes.

Q. When did you first know about those?

A. I don't know about 18. I know along in 35. I don't know the exact section, but I know along in there there is some exposures.

O. I say, when did you first know that?

A. Why, along in 1900, 1901.

Q. Now, do you know whether, in the immediate vicinity of McKittrick—that is, in certain portions of 30-22—that there are large showings of liquid asphaltum oozing from the ground, at any time after you came into the country?

A. Yes.

Q. Do you know of an oil sand cropping in Section 5 of 30-22?

A. No.

Q. Are you acquainted with the spot where the railroad running into McKittrick through Section 14 in 30-22 intersects the axis of the hills there?

A. Section 14?

Q. Yes; where the railroad comes in.

A. Yes.

Q. Of 30-22. Now, you have been in there yourself, haven't you?

A. Yes sir.

Q. Do you know of any cropping of oil-sands or indication of waste of oil there?

A. I have heard them speak of that; but there is nothing there I would consider as any oil-sand or any seepage of oil.

Q. You just heard them talk about it?

A. Heard them talk about it and I have seen it, but I say I don't consider that a cropping in 14.

Q. You have seen what? The place, or seen the oil sands? [1388]

A. Seen the place and what others have talked of regarding this place as being oil-sand.

Q. And you say it is not an oil-sand?

A. I don't consider that an oil-sand, no, in place.

Q. In place?

A. In place; yes.

Q. What do you mean? That somebody came there and dumped some there?

A. Sure, the stuff flows from the hills there and banks up.

Q. What hills?

A. From McKittrick. The railroad goes up the ravine.

Q. Didn't you see a cropping of oil-sand where the hill was cut into there?

A. Yes, but I don't consider that oil-sand in place. That has washed down and eroded down from the hill a little higher back.

Q. I am speaking of the east bank where it goes

through. The railroad cuts through there in a north and southerly direction, doesn't it?

A. Yes.

Q. Now, on the east bank of the hill there?

A. Yes; I have seen it.

Q. Does that from the east bank, do you claim, come from over here, or from there?

A. From the east bank; but I don't consider that an oil-sand cropping.

Q. Now, if there is an oil-sand cropping out of the east bank of that hill, where does it come from?

A. Well, it is porblematical, in my opinion, how it got there, if there is any there.

Q. If Mr. Owen, whom you spoke of having conversations with, stated that he found oil-sands cropping there, would you believe [1389] him?

A. Why, if he said there were oil-sands cropping there, that it would be his opinion as to there being oil-sands there, why, I would have some faith in them being there; yes.

Q. Do you know Colon F. Whittier?

A. Yes.

Q. Would you believe him if he stated he found oil-sands there?

A. Well, I don't know whether I would bank very much on his opinion about there being oil-sand there.

Q. Do you know Captain Frank Barrett?

A. No; I don't know him. I know of him, but I don't know him.

Q. You don't know enough about him to form any opinion as to him or his character?

A. No.

Q. You are able, from your experience as an oil man, to recognize oil-sands, are you not, when you see them?

A. Why, if they have got oil in them, yes.

Q. Well, if it showed the evidence of having had oil in them, would you know it?

A. Yes; if the sands were stained, that would be evidence enough to me that they had been in contact with oil.

Q. You have been all over the Elk Hills, you say, over the whole field? Did you so state?

A. I have been generally over the field; yes.

Q. Now, why was it that you never discovered any oil-sands in 32, if you were all over that field?

A. Well, I might not have gotten in there at that particular point.

Q. The reason you assign in that case is because you were not in there? [1390]

A. I don't know that I was on that particular spot. If I was, I don't recall seeing any oil sand there? Perhaps I might not have been there, if there was any there.

Q. Do you know of any oil cropping in 31-21 on Section 14?

A. Why, I know there is some oil-sand croppings over in that country.

Q. In that township, you mean?

A. I know there is some croppings in Township 31-21, but I don't know exactly what sections they are on.

Q. Now, do you know of an oil cropping or oil seepage in 31-22 on Section 22?

A. No; I don't know of any seepage there.

Q. Do you know of a seepage on Section 34 of the same township?

A. No; I don't.

Q. Do you know of any oil seepages in that township?

A. I don't know of any seepages. I know there is an exposure up there, but I have never seen any oil seeping out?

Q. What do you mean by "exposure"?

A. I mean the sand that crops out in there, that we try to bank on it, but I never saw any live seepages in that country.

Q. Well, you have seen oil-sands, then?

A. Well, I couldn't say they were oil-sands. I have seen sand that crops in there that we tried to follow.

Q. Why do you try to follow them?

A. Well, they crop up there in the hills and we figure that they might have contained oil, and if they did, why, getting them further down on the dip they would contain oil now.

Q. Do you know of an oil-sand in Township 31-24 in Section 1, about half a mile east of a point on Section 29? [1391]

A. The only one I know is the one right next to the—No; I don't know that one.

Q. Well, do you know one that you have already spoken of on Section 9—was it?

A. It is near the Honolulu well.

Q. What section is that on?

A. The Honolulu well was on 10, but that is on the other township, 30, 32-24, that I know of. That was a gas blow-out.

Q. In 32-24?

A. In 32-24, yes. I don't know of the one you refer to in Township 31-24.

Q. Do you know of any seepages or oil-sands in 32-22 in Sections 1 and 2?

A. I know of the sand croppings up in there; yes.

Q. Do you know of any oil-sands cropping in Section 6 of the same township?

A. No. You mean that is over in the next township?

Q. No; in the same township.

A. That would be six miles away.

Q. Do you know of any oil seepages in Sections 21, 22 and 26 of the same township?

A. No.

Q. What township are you looking at?

A. 32-22.

Q. Yes; that is right. Have you referred to 32-24 of Section 11 in your testimony? Is that the place you spoke of as near the Honolulu well?

A. No; that was in Section 10 of 32-24.

Q. Do you know of a gas blow-out or oil-sand cropping in Section 11 of 32-24?

A. Well, that cropping I referred to there. I

don't know whether that is in 11 or not; but I know it is in close proximity [1392] to the Honolulu well.

Q. And which direction from the well is it?

A. It would be kind of east, I think, or northeast.

Q. Now, can you find Township 11, Range 24, on that map? That is down in the San Bernardino meridian.

A. What section?

Q. Section 2.

A. Yes.

Q. Do you know of a seepage just south of the standard line there in that section?

A. Yes; I know the seepages along in there. That is considered the Sunset district.

Q. Do you know of any pitch springs that were ever discovered down in there before your time?

A. I know that there was asphaltum used to bubble out there.

Q. Now, generally, along the line extending between McKittrick and Sunset, you know of blow-outs and asphaltum oil in many other places than those which have been mentioned?

A. Why, to my knowledge there is no outcrops excepting what is along in the Sunset district and the McKittrick district. I don't know of any real live outcrops between those two fields.

Q. Do you know of any croppings of any kind that would be regarded as oil-sands between the two fields along the line of the contact with the range?

A. None other than I have mentioned.

Whereupon the further taking of testimony herein was adjourned until 2 o'clock P. M.

On Thursday, December 5, 1912, at 2 o'clock P. M., the further taking of testimony herein was resumed pursuant to the adjournment: Willis N. Mills, Special Assistant Attorney-General, appearing on behalf of the plaintiff; and Charles R. Lewers, Esq., [1393] appearing on behalf of the defendants.

Whereupon, E. J. MILEY was recalled and cross-examination resumed as follows:

Q. Mr. Miley, you first went into the oil business in 1900? Is that right?

A. Yes sir.

Q. The spring of 1900?

A. Yes sir.

Q. And you were in the oil business continuously from that time to now, with the exception of two years, 1907 and '08?

A. Yes sir—1906 and '07.

Q. In 1906 and '07, you were not active in the business?

A. No sir.

Q. From such experience as you have had in the McKittrick Midway field, you have now come to the conclusion, have you not, as an oil man, that the best wells in that field are sunk and produced down away from the line of contact, on the flat? Is that true?

A. No; not altogether so.

Q. Well, the largest producers are down on the flat?

A. The wells that have come in and produced the largest have been down on the contact; yes sir.

Q. Where are the majority of the productive wells in that field now? On the flat or on the flank of the hill?

A. Of McKittrick?

Q. McKittrick or Midway field. The field you described this morning.

A. In the McKittrick they are up on the—

Q. Speaking of the field now particularly.

Mr. Lewers—Allow the witness to finish his answer.
[1394]

Mr. Mills—I asked the question as to the whole field.

Mr. Lewers—Perhaps it cannot be answered in the whole field the same way. Allow him to finish his answer.

A. There is a distinction. In the McKittrick is a little different proposition than in the Midway.

Q. What do you say as to the McKittrick.

A. In the McKittrick the principal producing wells there are on the ridge on an overturn there, and they have some wells out on the flat of the McKittrick.

Q. How are the wells on the flats compared with the others?

A. That is hardly figured—that hasn't anything to do with the McKittrick. That is another proposition. There is a fold in there. But as far as the Midway is concerned, they have brought in some very

good wells right on the top. For instance, the American Oil Fields on Section 36, 31-22, brought in a well at about 900 feet that flowed 25,000 barrels a day for quite a while. One of the biggest wells brought in was the American Oil Fields in Section 36.

Q. When was that?

A. I think that was in 1910.

Q. And how long did it flow at that rate?

A. I might be mistaken on that one here. No, it was 1910, I think. How long did it flow?

Q. Yes—at that rate of 25,000 barrels a day.

A. At 25,000 barrels a day, it did not flow any great while.

Q. Well, how long?

A. Well, it must have flowed twenty or twenty-five thousand for two or three months, and then the well gradually went down. Of course, we have some wells further down at the contact down in the Midway field, but none of them that really stood up or averaged much better than that, with the exception [1395] of the Lake View.

Q. Well, was the Lake View on the flat?

A. Well, that would be sort of in the toe hills.

Q. Lake View is on Fractional Section 25?

A. Yes sir.

Q. And that well for awhile flowed as high as 80,000 or 90,000 barrels a day?

A. I understood that it averaged 40,000 or 50,000 for quite awhile.

Q. It was brought in in the middle of March and flowed continuously with varying amount of production until sometime in November or December of that year?

A. Until Decoration Day, whatever that is—not Decoration Day. I mean Admission Day. In September. I remember I was at the well on the morning and it was a holiday, and it quit.

Q. What do you say as to the difference by comparison between the productiveness of wells on the flat and those on the line of contact down near Midway?

A. Of course, if your wells are out on the flat, on the same contact—for instance, you have more drain or more pressure on your wells and you catch the oil-sand deeper in the well and catch it on that same contact, and you would expect to get a more long-lived well on the deeper well.

Q. Now, was it on the Midway where you were drilling down on the flat when Mr. Spellacy thought you were making a mistake?

A. That was in the basin of the Midway; that was what they looked on as the flats; yes.

Q. And you now have come to the conclusion that that was the proper thing to do, notwithstanding the criticism made by some of the people on the hill there?

A. As far as that Midway is concerned, yes. That has been demonstrated. [1396]

Q. Now, if you knew that a geologist, as early as

1900 or 1901, had so advised a company that he was working for to cease drilling in the line of contact and come down on the flat, would you regard that man as a man of good judgment, in your opinion?

A. Well, if he knew that the contact extended out there, of course—the geologist cannot see into the ground; he don't know those things. You have to determine by actual drilling whether the contact extended out that far.

Q. Do you know whether Jewett & Blodget in 1900 were engaged in the asphalt business?

A. Yes sir.

Q. And that they had a number of small wells in the Sunset Midway fields along the line of contact—shallow wells—for the purpose of getting oil to flux their asphaltum?

A. In what section?

Q. Along the Midway and Sunset field there.

A. I know that Jewett & Blodget had wells in Sunset and they were extracting this heavy stuff and turning it into asphaltum. And I also know that they attempted to extract some heavy oil or asphaltum at McKittrick, and hauled oil from Los Angeles up there to use for a flux. They did not have any oil in that district at that time.

Q. At that time Jewett & Blodget were principally in the business of extracting and mining asphalt for the market?

A. Yes sir.

Q. They were not going out to get liquid oil to market so far as you know?

A. No; they were not in the fuel or marketing business; they were in the asphalt business.

Q. Mr. Youle testified at page 1037 of the reporter's record, as follows: "Q—In 1890 were any wells sunk under you direction? A—We commenced right away and started two drilling [1397] rigs right away. Q—And were those wells successfully discovering oil? A—We found oil in every one of the first three. The first three wells that we drilled on Section 28 struck oil. Q—That is, at Sunset? A—Yes. Q—Now, how many wells were sunk there altogether under your direction or under your advice? A—Oh, there was probably fifty. Q—And that had been a commercially successful territory? A—Why, no. It was not, Blodget, Beale, the Company, wanted me to drill those shallow wells and get a thick heavy oil, and asphalt was worth then \$30 a ton in New York, and produced what they called liquid maltha and let the light oil alone. If I told them once I told them a hundred times we could go out there and get more oil in one well than they could out of fifty; because I knew it was dipping down there and there was no question about it, it was no guess-work at all. But they wanted this heavy oil, and we drilled new wells out a little bit in front, and it was too light for any use for asphalt, but they didn't want anything but the asphalt business and they wanted this liquid maltha for the purpose of flexing the hard asphalt; and that is why there was so many of these small wells directly in the out-crop. Not from my advice. I would have

given anything in the world to have had them allow me to go down there and drill a well where I ought to. It just seemed as though I was out of my latitude there. I knew where I ought to go, but they wouldn't allow it. They wanted these shallow wells." Do you regard the advice which Mr. Youle gave to Jewett & Blodget at that time as good advice?

Mr. Lewers—Objected to as not cross-examination of any matter brought out in direct examination, and it appears that the very question asked was long prior to the time when this witness testified to having been in that territory at all.

A. As the thing has developed now, it was darned good advice. [1398]

Q. By Mr. Mills—Mr. Youle testified that in his experience he had drilled 176 producing wells, averaging \$20,000 a piece—

Mr. Lewers—In cost.

Mr. Mills—which would be something over \$3,000,000, and I believe he further testified that at no time did he drill an unsuccessful well where he started it and where he was permitted to place the wells. Taken in connection with his vast experience of over fifty years in the oil business in this country, in Mexico and in Canada, and his pioneer work in the Midway-McKittrick field, and the results of the predictions made by Mr. Youle since you have gone into the oil business, would you say that he had been a successful oil man?

Mr. Lewers—To which we object on the ground

that the question is not cross-examination of any matter brought out in direct examination of this witness. On the further ground that the question does not recite the entire record of all the testimony concerning Mr. Youle, and is an attempt on cross-examination to bring in the qualification of a witness offered on behalf of the government, without bringing in all the information on which any such judgment can be passed. On the further ground, that it is a matter for the court to determine, and not for the witness.

A. Well, that is a pretty hard question to answer just from that question.

Q. By Mr. Mills—Do you think it is difficult to answer that question?

A. He may have drilled all these wells and it is a question of what the returns that came from them amounted to.

Q. I think I have stated that they were successful and producing wells—productive wells.

A. I am familiar with the wells that he drilled in the Midway and Sunset field, and I cannot say that those wells have turned out as being a howling success. [1399]

Q. You are not inclined to give Mr. Youle any credit for being a successful oil man?

A. Yes, sir; I am. I am not prejudiced at all. I am simply stating things as I know them.

Q. What reason have you for characterizing Mr. Youle the way you did this morning, and refusing to give Mr. Youle credit for what he has actually done in the way of making a success in the oil business?

A. Why, I am just stating conditions as I know them to exist in that country.

Q. Did you ever have any trouble with Mr. Youle?

A. None at all. I know that Jewett and Blodgett were the pioneers of that Kern county field, and they spent thousands and thousands of dollars up there and spent it under Mr. Youle's advice and under his management, and Jewett and Blodgett never made any money out of the oil business.

Q. Don't you know as a matter of fact that Jewett and Blodgett never put down a well on the advice of Mr. Youle, but contrary to his advice?

A. I don't know that.

Q. Why do you make the statement that they spent the money on his advice, if you don't know it to be a fact?

A. Well, all I know is that he was running the business there.

Q. You know he was actually in charge of the drilling operations, don't you?

A. I know he had charge of the drilling operations.

Q. But you don't know as a matter of fact, as both he and Mr. Blodgett testified, that these wells were put down under the direction of Jewett & Blodgett? That is, the place was marked? Now, why do you say that Mr. Youle has not been successful because these wells were put down under his direction? [1400]

Mr. Lewers—To which I object on the ground that

it is a mis-statement of the testimony of the witness Blodget. He testified, on the contrary, that Youle was the man they had in charge, on whose advice they relied.

Q. By Mr. Mills—I am referring now to the Midway field.

A. Of course, there is no question that Mr. Youle is a man of experience in the oil business. I don't say that he is not. He has had a lot of experience and undoubtedly he has got some very good judgment.

Q. He probably was in the oil business before you were born?

A. Sure he was, if he was in that long himself.

Q. And you don't want to bank your experience as an oil man against the experience of Mr. Youle, do you?

A. I bank my experience—yes; I would take my own judgment before I would take his, if I wanted to spend some of my money.

Q. You think you know more about the oil business than Mr. Youle?

A. I don't say that.

Q. Did you ever have any trouble with Jewett & Blodget at all?

A. No sir.

Q. Are your relations with them friendly now?

Mr. Lewers—Mr. Jewett is dead, is he not?

A. The old gentleman is dead; yes sir.

Q. By Mr. Mills—When did you first ascertain, Mr. Miley, that you were to be called as a witness

here? When were you first interviewed as to what you would testify to in this case by any agent of the Southern Pacific Railroad Company?

A. I don't know as I had any particular interview. I met the counsel this morning. [1401]

Q. Did you ever talk with the agent of the Southern Pacific Company before you met Mr. Lewers this morning?

A. I met this gentleman one day—

Q. By Mr. Lewers—Mr. Luke?

A. Mr. Luke—perhaps a month or six weeks ago, or maybe longer than that.

Q. By Mr. Mills—Did you know what you were wanted to testify to?

A. No.

Q. Did you have any idea what it was about?

A. It was in connection with the character of this land over in there as to what it was fit for as oil land.

Q. Have you any relations in a business way, outside of becoming an occasional passenger on the trains with the Southern Pacific or the Southern Pacific Railroad Company or the Southern Pacific Company?

A. No.

Q. Have you any business relations whatever with the Associated Oil Company?

A. Yes.

Q. Of what nature are your relations?

A. We are selling them oil and doing business with them.

Q. Who is the superintendent of that company—the Associated Oil Company?

A. In the Midway field?

Q. Yes.

A. L. J. King.

Q. Is Mr. King a particular friend of yours?

A. Yes sir; he is a friend of mine.

Q. You are quite intimate, aren't you?

A. Yes sir.

Q. You know, don't you, Mr. Miley, that the Associated Oil [1402] Company is owned by the Southern Pacific Company? That is, by a majority of the stock in it?

A. I understand that is the case.

Q. Have you ever discussed with Mr. King the nature and the character of the testimony you were to give here in this suit?

A. No sir.

Q. Did you ever discuss with him the different wells that you have testified about this morning over in the Elk Hills?

A. I have talked with him about how they are getting along with these wells; yes sir.

Q. When did you begin to talk with him about it?

A. As soon as they began to drill over there.

Q. Did you arrive here this morning?

A. Yesterday morning.

Q. When did you first see Mr. Lewers?

A. This morning, about fifteen minutes or so before I arrived here.

Q. Whom did you talk with yesterday about this case?

A. Mr. Luke informed me yesterday that I wouldn't be wanted here. He didn't say anything about the case at all, but he informed me in the morning that I wouldn't be wanted here, and he called me up on the telephone about noon and said they didn't want me till this morning, and maybe not then, and I said, "Try and get me on today, because I want to get away."

Q. You arrived yesterday morning?

A. Yes sir.

Q. And you have been accessible all the time for the purpose of this case since you arrived here?

A. Yes sir.

Q. Do you know enough about the Associated Oil Company's business to know whether they use standard tools or a rotary [1403] rig on the wells you have testified about this morning on the Elk Hills?

A. Yes sir.

Q. What do they use?

A. They use rotary rigs.

Q. It is a fact, is it not, Mr.—

A. They may have had standard part of the time. They had rotary, but they may have changed over to standard.

Q. Isn't it a fact that on the rotary rig they use cement—liquid cement?

A. With a rotary? They pump liquid cement. They get into a formation that is cavy. They pump

in a sticky, 'dobe mud to plaster up the walls to keep the formation from caving.

Q. That has a tendency to mask the true formation?

A. Yes, but a person who is attending to his business on the rotary takes his samples all the time and keeps a good line on the formation they are going through.

Q. It is possible, however, that the drill going through the oil sand, and their using this liquid mud and pumping it in, it might pass through the oil sand and the driller not know it?

A. Yes sir; that has been done with the standard tools as well as the rotary.

Q. I am asking you about the rotary.

A. It is possible.

Q. Do you know whether or not in any case in the Elk Hills where a rotary was used that the driller actually passed through oil sand and went for several hundred feet beyond it without knowing it?

A. In the Elk Hills?

Q. Yes.

A. No; I don't know of any case like that.

Q. Do you know of a case over in Section 11, Township 31- [1404] 24—in the Buena Vista Hills—opposite the Honolulu, where the drillers went through with the rotaty rig to oil sand and didn't know it and afterwards pulled back and found the oil?

A. I don't know of that particular case.

Q. The K. T. & O. well on 32-24?

A. I am not familiar with that instance.

Q. Do you know whether the same thing happened on Section 32 in Township 31, South, Range 23 East, to the Associated Oil Company, where the geologist of the company insisted that the drillers had gone through the oil sand and made them pull back and developed in one instance a 600-barrel well and in another instance a 200-barrel well where the drillers swore there was no oil sand?

A. I don't know that the geologist made them pull back. I know they were testing out that territory and did pull back and wash out the sand and brought this in after they had drilled beyond the particular strata that they tested out afterwards. Of course, in this rotary business, they can wash, if they want to test out the formation they have gone through,—all they do is to pull back and pump water in and wash out the mud, and that frees up the formation or washes it clear again, and if there is any gas or oil there it breaks in. And after they had gone beyond some oil strata they afterwards backed up and tested it out. For what reason, and so forth, I don't know anything about that.

Q. Are you acquainted with Section 26 in 30-23?

A. Yes.

Q. Do you know whether the Associated Oil Company has brought in any wells that are producers in that section?

A. They brought in a well on 26.

Q. When was that produced?

A. That was called a finished well or producer there over [1405] a year now. It produced a while and then shut down, and this well on Section 24 has also been brought in as a producer.

Q. What production did that well give on Section 26 per day in barrels?

A. 20 or 25 barrels.

Q. How do you know that? Do you know whether it has ever been thoroughly tested out?

A. I know that as far as I saw the well in operation and—

Q. Just answer my question. I ask you whether you know that it has been ever thoroughly tested out?

Mr. Lewers—You asked him how he knew it. I submit that the answer is responsive. The question is double.

A. I saw the well producing, and from what I saw of it in operation I judge it to be something in that neighborhood of a well. And, furthermore, I was told by Mr. King—

Q. By Mr. Mills—You needn't state what Mr. King told you, because that would be hearsay evidence. Your principal information came from Mr. King in the matter rather than from your own personal observation, didn't it?

A. Not altogether. I spent some time over there when they were working on this well.

Q. How much time did you spend there?

A. I have been at the well several times, and I

stayed there one afternoon, all night and part of the next day.

Q. What did you stay there so long for?

A. I wanted to see how they were getting along with these different wells they were working on.

Q. You remained there practically two days to watch this one well?

A. No; I was watching the other wells they were working on.

Q. In the same section?

A. They were working at that time on a well in 24 and a well [1406] in 22, and a well on Section 30 in 30-24.

Q. That well on Section 30 in 30-24, what have you to say about that well? Do you regard that as a producing oil-well?

A. One of the times that I was there they had encountered about 13 feet of sand, approximately, and the well blew out and gave evidence of making a pretty good well. It seemed to be more of a blow-out than anything else, and they went ahead and drilled it deeper. At that time it was 2713 feet. They afterwards drilled the well to 3836, looking for something better. As to how much of a well it amounted to, I don't know.

Q. Do you think it ever went as high as two or three hundred barrels a day?

A. I don't think from the evidence I saw of it—I don't think it would stay doing that; no.

Q. Would you be surprised to learn that it had

run two or three hundred barrels a day by actual measurement?

Mr. Lewers—For how long? One day?

Q. By Mr. Mills—Well, for a sufficient length of time to guage it.

A. From what I saw, I would be surprised; yes.

Q. Are you acquainted with a man by the name of James F. McCay?

A. Yes.

Q. What is his business?

A. At the present time he is employed by the Associated Oil Company.

Q. He is their head trouble man, isn't he? He looks after their wells when they are in trouble?

A. He was the tool-pusher, but I think now he is in charge of a string of tools, working on a well.

Q. Was he at any time their head trouble man, as it is called—taking care of their wells when they get into trouble? [1407]

A. I didn't know him as filling that capacity.

Q. Mr. McCay testified on page 684 of the transcript as follows: "A—That was on Section 30.

Q—Was that in 30-24? A—I think so; yes sir.

Q—East of the well that you have first referred to?

A—Yes: It is east of it. Q—Now, will you state whether you were there when it was first put on the pump?

A—Yes sir. Q—And did you measure the

oil that was flowing from the well when you were there?

A—Yes sir. Q—How soon after the well

began to flow did you measure it? A—Well, we had

been working with it. I had charge of the well, at the time, perforating it and getting it to produce, and I had probably been over there maybe four or five weeks working with it, baling it, before we put it on the pump. We put it on the pump, and it had been pumping, I think, a couple of days, when I took a gauge of it. Q—How much of the casing was perforated? A—Pretty near 800 feet, I believe. Q—And between what depths? A—Well, somewheres in the neighborhood of 36 or 3700 feet up to 2700.” Now, Mr. Miley, you are familiar enough with that well to give figures of the depths. Will you state now for the benefit of this case how many feet of casing had been perforated and between what depths?

A. Well, they did not have any oil until 2700 feet, I think it was 2700 feet that they struck this blow-out that I referred to a while ago: and if they had any other pay stuff, it must have been from there down to the bottom.

Q. From what figures, do you say?

A. From 2700 on.

Q. 2700 to about 3800 feet, I think you said?

A. They drilled to 3726.

Q. “Q—Now, did that well increase its rate of production from the time it was first put on the pump until some time thereafter? A—Up until the time I gauged it. That is as far [1408] as my knowledge went with it. After I gauged it that time I have not been there since, nor ain’t seen the well

since. Q—And when you put it on the gauge, how much oil was it producing? A—It was producing at the rate of 406 barrels a day.” Would you call that a successful well?

A. I would.

Mr. Lewers—Why don’t you read the rest of what Mr. McCay said; that it dropped off after that?

Mr. Mills—I will let you read it. I am not going to read this entire testimony to him.

Mr. Lewers—I notice that you read the good part.

Mr. Mills—If you find it here I will ask it.

Mr. Lewers—It is there on the cross-examination.

Q. By Mr. Mills—Do you know, Mr. Miley, whether the Scottish Oil & Gas Company on Section 20 of 30-23 was drilling at that time with a rotary?

A. They started that well with standard tools, I know.

Q. Did they ever put it on a rotary?

A. I think they afterwards put in a rotary.

Q. At what depth did they start with the rotary?

A. Well, it was approximately somewhere about 2000 or 2500 feet, if I remember right.

Q. Wasn’t it exactly 2790 feet?

A. I don’t know for sure. I know they got down somewhere in the neighborhood of 2000 feet. It might have been over or it might have been less—when they put the rotary in.

Q. In all these cases where the rotary rig was used you say it is possible that the driller might have gone in by the oil sand on account of the mud

masking the true formation, and get no results, where he actually passed through prolific oil sands?

A. Yes; they can plaster up the oil sand and shut it off with rotary mud. [1409]

Q. And is it possible, from your experience as a practical oil man, to conceal the true production of an oil-well while they are drilling it—conceal the fact whether a well is a good well or a bad well?

A. When you are drilling a well a man can't tell anything about what the well is in drilling. He has got to test it out and put it on the operating list before you can determine what it is.

Q. Is it possible for the driller to know that he has a good well and conceal the fact from any one else, unless the other party would go in and test it out himself?

A. It would all be guess-work. You can't test a well without actually operating it.

Q. For how long?

A. Well, to know and have a conservative idea of what a well is good for, it ought to be on the steady operating list for 30 days, because these wells, when they come in first, have a heavy gas pressure, and lots of times will produce more oil the first few days than after they have been pumped for a while.

Q. Assuming that the well was tested out for a minimum time of 30 days, is it possible to conceal the fact from the world that a well is actually a good producing well?

A. Well, if you can shut the blooming thing

down, it is concealed. You can't tell what it is good for if it is not operated.

Q. Can you plug it so that it can be concealed?

A. You might fill up the hole, I suppose, but if it is a well that won't flow, you simply shut it down and no one knows what it is good for.

Mr. Lewers—Is this preliminary to showing that the Scottish Oil Company knew it had a good well and deliberately sacrificed it? [1410]

Mr. Mills—I don't know that I have to answer every frivolous question that is asked.

Mr. Lewers—It is pertinent in the line of your examination.

Q. By Mr. Mills—Mr. Miley, you have spoken of a well or work of yours that you started on Section 29 in 30-22 and in Sections 3 and 10, I believe, of 30-21?

A. Section 3?

Q. Wasn't it 3 and 10?

A. A well in 10.

Q. In 30-21?

A. 30-21.

Q. Was there another one there?

A. There was another one in 11. There was 11 in 30-21 and 11 in 31-22.

Q. There was one drilled by the Associated in Section 3, wasn't there, that you mentioned?

A. Yes; Section 3 in 30-21.

Q. And one that you drilled in 10 in the same township?

A. Yes.

Q. And one in 29 of 30-22?

Mr. Lewers—That is right.

A. There are a lot of wells in 29.

Q. By Mr. Mills—This is the one you first spoke of as having been abandoned. Which side of the anticline were those three wells—the McKittrick anticline? Were they west or east?

A. In Section 29?

Q. Yes.

A. Now, wait a minute. You say I drilled a well in 29.

Q. You spoke early in your testimony—

A. I drilled a well in 29, 3520 feet deep, and then I drilled—

Q. Let us go back to the well that you abandoned? [1411]

A. I abandoned that one on 29.

Q. Is that the one you first spoke of in your testimony where you acquired a lease from a man named Barry?

A. Yes sir: That was on that property. That is where I drilled the first ten successful wells.

Q. Was that particular well that you abandoned on the west or east side of the anticline?

A. I don't know; nor nobody else, I guess. We had shallow oil around that well.

Q. How about these wells in 3 and 10 of 30-21? Which side of the McKittrick oil outcrop was it?

A. They were on the extension of the McKittrick

outcrops, and whether the sands pinched out there or whether they are southwest of the anticline, I don't know.

Q. You are not positive that they were on the northeast side?

A. I don't know.

Q. Isn't it generally a fact that wells which have been drilled on the southwestern side of the McKittrick oil crop or in that vicinity have not been as successful as the wells drilled on the northeast side?

A. That is right.

Q. They are generally uniformly successful on the northeast side of the outcrop?

A. Before the sands pinched out, yes.

Q. And you say you don't know whether the wells which you described in Section 3 and 10 and the one in 29 were on the southwest side of the anticline?

A. Well, now, you want to keep those ones in 10 and 3 away from this one in 29.

Q. Take 10 and 3, then.

A. The formation there is—that really was an extension [1412] of the McKittrick stratum, and they have never been able to extend that any further along that general trend. So, therefore, the sands may become barren and the formation may pinch out, and still it might be back to the northeast. But they have not found anything to the northeast along there in the same line of this McKittrick stratum, and therefore it has probably pinched out.

Q. Have you any opinion now yourself as to whether it is southwest or northeast of the oil crop there?

A. Well, it is out of the oil zone.

Q. Does the fact that those wells were failures have any bearing, in your judgment, as to whether the Elk Hills are favorable for the accumulation of petroleum?

A. No; nothing to do with the Elk Hills. Not very much.

Q. Has it anything at all to do with your opinion of the Township 30-23—the south half of Township 30-23—some 8 to 12 miles distant?

A. No.

Q. You believe a well in Section 26 in Township 30-22—

Mr. Lewers—He didn't speak of a well; he spoke of some rigs.

Q. By Mr. Mills—Yes; some rigs. Was there any drilling done there at all?

A. With those rigs that I spoke of there was nothing done at all.

Q. Didn't do anything at all?

A. In connection with those rigs, no.

Q. Did you ever drill a well there?

A. There was no well drilled there.

Q. Did you drill a well there?

A. No.

Q. So the fact that you didn't get oil was due to the fact [1413] that you didn't drill a well?

A. I didn't say that I put up those rigs. They were put up by Berry.

Q. You don't want that to have the appearance of having a bearing on the question, whether there is oil in the Elk Hills—the fact that they didn't drill there?

A. It simply establishes the fact that the people that put up the rigs didn't think enough of the country there to go ahead with them.

Q. Where? In Section 26?

A. Down in the flats there below the McKittrick strike.

Q. That was your reason for giving the testimony?

A. I gave the testimony that after the excitement got over they abandoned the thing.

Q. They didn't drill there at that time?

A. No; didn't drill there at all.

Q. And they did not prove the territory by actual drilling?

A. There was a well drilled there in the last two years.

Q. I am speaking of the testimony you gave this morning at some length about carrying out some drilling rigs there—building some rigs there. That is what I am referring to.

Mr. Lewers—What is the question?

Mr. Mills—I am asking him if he desires to be understood that because they did not drill there was any evidence that there wasn't any oil in the Elk Hills?

A. It would have some bearing on the man's judgment of the country. You generally feel your way out from your actual discovery. You generally feel yourself away. Now, they didn't think enough of the country, working away from the actual development in McKittrick, to go ahead with it. So they abandoned it.

Q. Who was it that put those rigs out there?
[1414]

A. Clarence Berry's father.

Q. Did you have any financial troubles at that time—troubles in getting money?

A. No.

Q. Had all the money they needed?

A. I don't know anything about that.

Q. Do you actually know as a matter of personal knowledge yourself why those rigs were abandoned?

A. Abandoned because they didn't think the ground was any good.

Q. Is it regarded as good oil land now?

A. I don't think so.

Q. You think not? You think Section 26 is regarded as poor land for oil?

A. It is problematical. 26, 30-22, is not proven territory. It is questionable territory.

Q. You wouldn't wholly condemn it, would you?

A. I wouldn't want to spend very much money in there for a while until I knew something more about it than I do now.

Q. Well, it was never proven by the fact that they put up some rigs and didn't drill?

A. So far as the actual knowledge that there was not or was there, is concerned, it was not proven; no.

Q. So that the adandonment of the well was due to the fact that it was never proven?

A. No; they abandoned it because they didn't feel justified in spending any money on it.

Q. What year was that?

A. 1901 or '2.

Q. Berry had no experience in the oil business, did he? He was a Klondike miner, wasn't he?

A. He was getting quite a bit of experience at that time. [1415] He had a couple of hundred thousand dollars in McKittrick.

Q. He made a couple of hundred thousand dollars in the Klondike.

Mr. Lewers—Let him finish his answer.

Q. By Mr. Mills—Isn't it true that he was not an experienced oil man?

A. He had the money to buy experience.

Q. He had the money which he earned in the Klondike, but he was not an experienced oil man?

A. Not at that time himself personally.

Q. Do you know from your own personal knowledge that the well spoken of by you on Section 22 or 30-23 of the Associated Oil Company has gone 3000 feet deep?

A. Do I know that it has gone 3000 feet deep?

Q. Yes; to your personal knowledge.

A. I didn't measure up the hole myself.

Q. Isn't it a fact that it is less than 3000 feet today?

A. No; I am pretty well convinced that it is about 3000 feet deep.

Q. Do you give your testimony from your own personal knowledge of it or from hearsay?

A. From my observation. I know when I go into a rig and they are running a rotary and pull out the drill pipe and stand it up in the rig, I can tell pretty closely how deep it went into the hole.

Q. Did you watch it to see how deep it went?

A. When I go into a rig I always look at things.

Q. I am asking you if in this case you watched the rig to see if it was 3000 feet or not?

A. Yes; I was around that rig—

Q. My information is that it was less than that. I want to know if it is a fact. [1416]

A. From what I see of the well I know it is pretty close to 3000 feet.

Q. Have you been pretty intimately acquainted with the work done by the Associated Oil Company up there from the time they went into the Elk Hills?

A. I have kept tab on what they have been doing there as well as I did on all the rest of the "wild-cat" drilling, on that flat.

Q. Their work has been done there intermittently? They have not prosecuted it with great vigor, but did the work from time to time?

A. No; when they first went in there they prosecuted the work pretty continuously until they quit.

Q. When did they quit?

A. Well, they stopped operations, it must be, about a year now.

Q. Do you mean to say that they quit finally?

A. I mean that they had to stop their drilling.

Q. Hasn't there been other periods of time when they stopped their drilling and resumed it again?

A. Not on all the rigs.

Q. Well, they have done it on some of the rigs, haven't they, in the Elk Hills?

A. Well, those strings that they had running there were kept in operation pretty continuously, barring break-downs and waiting for material.

Q. Do you know that of your own personal knowledge?

A. Yes.

Q. You say that in the course of twelve years you have been a half a dozen times in the Elk Hills, and yet you are not able to state with definite certainty that they have continued that work without interruption from the time they began on those rigs [1417] over there till they quit a year ago? Is that true?

A. Yes; I know that they kept that rigs running pretty continuously, because—I wasn't over there—but I came in contact with the men working there.

Q. Then you are basing it on hearsay?

A. The keeping of the rigs working?

Q. Yes.

A. Well, some of it; yes.

Q. That is what I thought. Do you know whether the Standard Oil Company have put in some wells in the Midway district out on the flat upon the advice of Dr. Starke, their geologist?

A. Yes.

Q. You know also that they are big producers?

A. Yes; I know they have some fine producers there.

Q. Do you know whether the Standard Oil Company owns any land in the Elk Hills?

A. None to my knowledge in the Elk Hills. They reach over there to the Buena Vista.

Q. Isn't it a fact that they own Section 36 in 30-23?

A. Yes; it is marked here on the map "Standard Oil Company."

Q. Do you know whether the Standard Oil Company is an oil company?

A. How is that?

Q. Do you know whether the Stanard Oil Company is an oil company?

A. Yes.

Q. You went over there, you say, in 1902 and '03 in the Elk Hills for the purpose of looking over it as a prospective oil territory as an investment for yourself. Is that correct?

A. Yes. [1418]

Q. As early as 1900 you heard of this oil seep in 32 of 30-24?

A. No; I didn't hear that.

Q. Didn't you so state this morning?

A. I don't think so. I said I heard of oil seeps over in there. I didn't know exactly whether they were on that section or not.

Q. Did you think it had sufficient bearing on the question of your investment for you to make an investigation of these oil seeps to determine whether you would buy land in there or locate in there?

A. I didn't understand that there was any oil seeps in Section 32, 30-23.

Q. 30-24, Mr. Miley?

A. Yes; that is right. The only exposure that I have ever seen and figured that it is an exposure, is the one that I spoke of this morning close to the Honolulu well on Section 10.

Q. That is not responsive, Mr. Miley. I will re-frame the question. You stated this morning on your direct examination, I think, or, at least, on cross-examination, that you had heard of these oil seeps in the Elk Hills as early as 1902 and 1901, and that you were in there as late as 1903 for the purpose of examining the territory as a prospective investment for oil purposes.

A. No; I was in there in 1902 at the time they were drilling the well in Section 11.

Q. You stated in 1903 also. Do you want to correct that.

A. When I referred to 1903 is when we abandoned Section 11 and moved over to McKittrick.

Q. I asked you specifically the question when you

were in there—I think on cross-examination—and I also asked you when you heard of these oil-seeps in the Elk Hills, and you said [1419] you knew of the oil-seeps before the time you went over there to investigate the land as prospective oil territory.

A. Yes; I know them by hearsay.

Q. I asked you why you didn't make an examination of them if you went in there for the purpose of making oil investments?

A. I was just looking over the country to see how it looked.

Q. You didn't want to make a detailed investigation of it?

A. I was not banking anything on these reports about what they had seen over there in the way of croppings in there.

Q. Then your trip over there for the purpose of investigating the possibilities of oil as an investment did not really amount to a detailed examination, did it?

A. Not a close detailed examination.

Q. If it had, you would have gone and examined these seeps, wouldn't you?

A. I don't know whether I could have found them or not.

Q. Assuming that they were there, would you have gone and examined them?

A. I didn't have any information as to the location of these seeps to take me to them, or anyone else that claimed they had seen them that could take me to them.

Q. Did you ever try to ascertain where they were from anybody?

A. Yes: I never could find out where they were.

Q. Did you do that before you went to look at the land?

A. I talked to some of these "wild-cat" fellows that locate land everywhere, where these seeps were, and tried to find them and couldn't find them.

Q. You tried to find them on the day that you went to look at this land?

A. I could drive from this well. It wasn't very far over in the hills, yes. [1420]

Q. You did make an effort to ascertain where these seeps were at the time you examined the land for the purpose of the investment?

A. Yes.

Q. And how much search did you make to find this seep which has been described as being several hundred yards long in Section 32?

A. I might not have been on that section. It is a pretty big country over there.

Q. How much of an investigation did you make to find these seeps?

A. I don't know just exactly. As I said, I went over there several days riding around there at different times.

Q. You didn't make any very extensive search for seeps, did you?

A. Not very, because I didn't have much faith in the seeps being over there.

Q. No. That is what I thought. You were willing at that time to condemn the Elk Hills as an oil territory with the limited knowledge you had after one or two trips that you made in there in 1902 or '03?

A. Not altogether from my trips there.

Q. At a time when you made no effort, substantially, to find where this seep was in Section 32 or any other seeps?

A. The seep did not make it oil territory, as I said this morning.

Q. Well, it would have a sufficient bearing on you as a man of means investing your money and jeopardizing your capital to induce you to make some preliminary investigation of it?

A. It would be some inducement, yes.

Q. You did a little "wild-cattin'" yourself in that country, didn't you? [1421]

Mr. Lewers—In what country?

Mr. Mills—In the McKittrick district.

A. "Wild-cattin'" on 10, as I spoke of a while ago.

Q. And didn't you wild-cat over on Section 22 in 30-22, you and some other "wild-cats"—E. J. Miley et al.?

A. We put up a rig there; we didn't do any drilling.

Q. Well, you "wild-catted" there.

A. That has been in the last few years. We got a little courage here when the last oil excitement came on in 1908, and we blew ourselves for a standard rig and done some assessment work.

Q. He was a more ferocious "wild-cat" than in early years.

Mr. Lewers—They all were.

Q. By Mr. Mills—You did some "wild-catting"?

A. Yes sir.

Q. You don't condemn a man for going out and prospecting and proving territory?

A. If you didn't "wild-cat" you wouldn't have any oil wells.

Q. And when we use the term "wild-cat" we use it as a euphemistic term?

A. A wild-cat well is a prospect hole, and we use the term "wild-cat" instead of "prospect" well, and the further it is away from development the wilder it is.

Q. That is it. The more wild it becomes. All right. That is all.

REDIRECT EXAMINATION OF

E. J. MILEY.

By Mr. Lewers:

Q. You say that there was a well actually sunk on Section 26 in Township 30-22?

A. Yes. [1422]

Q. By whom was that sunk?

A. Newman-Morris Oil Company.

Q. And when was that sunk?

A. The rig was put up there in 1909, I think, and just started in to do their assessment work; and in

1910 I think they began actually drilling to test the territory.

Q. And how deep did they sink?

A. Approximately 2700 feet.

Q. Did they find anything?

A. They found a little heavy oil at about 1200 feet, but not enough to make a producing well.

Q. And nothing below that?

A. Nothing below that.

Q. What is the present condition of that well?

A. It is abandoned at the present time. They became financially involved and stopped the operation.

Q. From your experience as a practical oil man, Mr. Miley, would you say that a gas seep or a gas blow-out is an indication of the presence of oil in paying quantities?

A. Not in paying quantities. It would have a tendency to encourage you to prospect, but it does not absolutely indicate that there is oil there in paying quantities. The formation may all be broken up and the oil scattered out, and you can't get enough of it in one place to make it productive or profitable.

Q. What is the recognized test for determining whether a territory is oil territory?

A. I can tell you a little story to illustrate that pretty well. It was told by a man who was a good citizen in this town, who had a lot of good experience.—

Mr. Mills—These stories cost us twenty cents a folio. Make it brief. [1423]

A. R. H. Herron, who is known through oil circles as an oil operator and an oil supply man. He told this story. When he was running the R. H. Herron Company, supplies, in a store down here in Los Angeles street, a man had some prospective oil territory that he thought of drilling, and he wanted to get a geologist to report or an expert to report on the ground before he started in, and he was referred to Mr. Herron as being a man of wide experience who could recommend him a good man to make this expert examination. So he called on Mr. Herron and Mr. Herron heard his story and he said "Now, I have got the expert for you. He never fails." "All right; I would like to meet him." He said "I will introduce you to him. He is right close here now." He stepped out of his private office and went back to the back of the store and introduced him to a string of tools, and he said "Here is the expert that never fails, and the only one."

Q. By Mr. Lewers—Do you agree with that story?

A. I agree with it.

Q. You were asked whether or not Dr. Starke of the Standard Oil Company had recommended sinking certain wells in the Midway field. Do you know whether or not Dr. Starke ever made any examination of the Elk Hills?

A. I don't know that he made an examination of the Elk Hills.

Q. Now, referring to Section 14, Township 30-22, where the railroad cut goes through, you spoke of

certain indications of asphaltum or oil there, and said they were not in place. Will you explain what you meant by that.

A. I meant that it was a formation that had washed in there from higher up on that formation.

Q. From up in the direction of McKittrick?

A. Yes; up there where the oil was oozing out of the [1424] outcrops, there being a ravine down there, and the water during the floods and heavy rains—we sometimes have cloudbursts that sometimes wash railroads out—and I meant by that that this stuff had been carried in or floated in from the places higher up on that formation.

Q. Have you ever seen any indications of that same float being carried at any other place?

A. Yes.

Q. Where?

A. You can find it along this same ravine and all those canyons all along in the McKittrick outcrops you find the float.

Q. Have you ever observed at any place successive layers of this asphalt float and then sand and then asphalt float again?

A. Yes; on Section 22 I tried to encourage myself enough there when we were figuring on spending some money on 22 in 30-22. There is some holes dug in on that section where we located it and it showed asphaltum, and they done this work and I presume recorded it as making a discovery. But some of the men that we had employed—one of our

foremen—he went and done some digging for us and afterwards I went in and passed on his work and told him he was simply digging in the float, and that it was nothing but float. There was no out-cropping there at all in my opinion, and that was a pretty good indication of it, because it looked like a nice blow-out—a nice outcrop. It was a sort of a gully that was washed over, and it could fool one very easily.

Then there is another indications in those hills where you can find this stuff washed in from the McKittrick seepage.

Q. In your opinion would the character of that alleged outcrop in Section 14 in the railroad cut be apparent to any competent geologist? Would any competent geologist know that [1425] that was float?

A. Yes sir; he could pass on it by digging into it and examining it. He could determine what it was.

Q. You have spoken of those abandoned derricks that were put on Section 26, 30-22, by the father of C. J. Berry. Is Clarence Berry a practical oil man?

A. Yes; he is now.

Q. And to your knowledge has he ever attempted to take up any of that land that his father had those rigs upon?

A. Not to my knowledge.

Q. Now, you have spoken of keeping in touch with the operations of various companies that were drilling in there in the Elk Hills and elsewhere.

Will you state what your practice was with respect to keeping track of the development in that country generally in the vicinity of McKittrick?

A. I kept constantly in touch—that is, by conversations with the different ones that were operating on these various wells, when I saw them, and in addition to that I would, every so often, go around and see for myself what was going on and keep track of the developments of the entire field.

Q. Now, you also have spoken of going over the Elk Hills. Did you make some examinations of any other country around McKittrick?

A. I went over the Midway field and around the McKittrick flats and the Temblor country, and on beyond that way, and the Bellridge country and the Devil's Den.

Q. You went over that entire country quite generally

A. Yes sir.

Q. Was that your custom off and on from the time you first went into the McKittrick?

A. Yes sir. [1426]

RECROSS EXAMINATION

OF

E. J. MILEY.

By Mr. Mills:

Q. Speaking of that Newman-Morris well on 26, Mr. Miley, in Township 30-22, that was located on the southwest quarter of that section, wasn't it?

A. The southwest quarter and nearly in the southwest corner.

Q. Now, as a matter of fact, at 1080 feet to 1190 feet they struck 1100 feet of oil sand which produced 40 barrels a day? Isn't that true?

A. Why, I couldn't say.

Q. Have you ever examined the log of that well?

A. I never examined the log.

Q. Are you prepared now to swear under oath that it did not pass through an oil sand 1110 feet?

A. I couldn't swear that they didn't pass through, but I would be willing to take chances on its not producing 40 barrels a day and keeping it up 30 days.

Q. Do you know whether the log of that well shows that it passed through 110 feet of oil sand?

A. No sir; I don't know whether it shows that or not.

Q. And that it is estimated at 40 barrels flow of oil at that point?

Mr. Lewers—I object to that—

Mr. Mills—I am asking the question whether he knows that.

Mr. Lewers—He says he never saw the log. If you have the log produce it and account for it properly by some one who knows—some one who put the log together.

A. Do I know whether that is true?

Q. Yes; do you know whether that is true?

A. From my experience I know it is not true. From my ex- [1427] perience in that territory I don't

believe it. That is, I don't believe it will produce 40 barrels a day.

Q. Do you know whether it did produce 40 barrels a day?

A. No; it did not produce 40 barrels a day.

Q. Do you know W. K. Dennis of McKittrick, California?

A. I do.

Q. Is he the man that drilled the well?

A. He was working on the well most of the time.

Q. Was he on the well at the time they passed from 1080 feet to 1190 feet?

A. He was there.

Q. I recall that little story you told illustrating what the only expert was. You mentioned Mr. Herron; that Mr. Herron showed him some oil tools?

A. Yes sir.

Q. Did it occur to you that any point was added to the story by the fact that Mr. Herron was selling oil tools?

A. No; that had nothing to do with it.

Q. He is not in the oil tool business?

A. He is not now.

Q. He was at that time?

A. He was; yes.

Q. I can well understand how he could refer to that as the only expert.

A. He didn't mean it that way. I know Herron too well. [1428]

DAVID KINSEY

Second Witness for Defendants. Los Angeles.

December 5, 1912.

Direct Examination.

My name is David Kinsey and I live at Maricopa, California. I have lived in the west side oil fields about 17 years. At present I am the superintendent of the Midway Valley Oil Company with headquarters at Maricopa.

I have been in the oil business since 1896 and during that time have been engaged in one way or another with the actual production of oil and have been a driller and superintendent of oil properties.

I am familiar with Sec. 12, 31-24. This section is in the east end of the Elk Hills. I first went into this section in 1908 for the purpose of drilling a well there for the Midway Valley Oil Company. In drilling this well I was superintendent and also was partly interested as owner. I was present during the drilling of this well and had active charge of it.

We started this well May 7, 1910, and drilled it to a depth of 4850 feet by the last of November, 1911. We used a standard rig entirely and did not employ a rotary at any time. We paid very close attention to the formations passed through, and I was watching all the way for the oil. I kept a log of this well which was made up from the daily reports furnished by the drillers. I was familiar with every foot of that well during the time it was being drilled.

From the surface down to 200 or 250 feet we had a

blue shale and clay mixed. From 200 to 210 feet we struck a water strata, or about there. From there on down to about 2,000 feet we had clear sailing with shale. At about 2,000 feet we struck a stratum of sand without water. From that down to 3700 feet deep it was almost all blue shale and clay. At 3700 feet we had a [1429] showing of gas and iridescent colors of oil on the water that came out of the well, but no oil of any kind. At a depth of 4,800 feet we struck a water strata that carried a heavy pressure of salt water. From that on to 4850 we had a blue shale and clay mixed and no other showing at all. The gas pressure disappeared.

This showing at 3700 feet which I have referred to as an oil showing was simply a color that came in the shale similar to that produced by pouring a few drops of coal oil on water. It was not black but it was an oily substance and it is found in the shale very often. But there was no oil sand in any part of the hole from the top to the bottom.

When we reached a depth of 4850 feet I decided that there was no use of going any further as there was no chance of getting oil. We therefore pulled out the pipe and abandoned it altogether. I never started any other wells in that vicinity and have since abandoned the property entirely.

I was in the Elk Hills in Sec. 11, 31-24 in 1902 or 1903. I never passed over Township 30-23 to know it, but probably I have driven over it. In January, 1909, I started drilling a well on the Midway flat in

Sec. 32 of T. 31-23. While we were drilling this well and were down to a depth of 1800 feet, Timothy Spelacy, who has been engaged in the oil business in that country for a number of years, told me that we were crazy for putting a well down there. Some weeks later after we had finished the well and it was flowing four or five hundred barrels a day, I asked him what he thought about our being crazy for drilling at that place and he told me that he never had any idea that we could get oil there. I first began work in that field in 1896 for Jewett & Blodget at "Old Sunset." They were drilling wells there for oil on Section 13. W. E. Youle was in charge of their drilling operations at that time and remained in charge of their drilling [1430] operations for three years after I went to work for them. I was acquainted with Mr. Youle during this time and worked for him as a driller. I never heard him say anything about going out on the flats or further out to sink wells.

The attention of oil men, as indicated by actual drilling and development work, was directed toward the Buena Vista Hills and Elk Hills first in 1908 and 1909. Prior to that time the general belief amongst oil men from as early as 1900 and from that up to 1905 particularly, was that the oil zone was pretty well up in the hills from Sunset to McKittrick.

During the last five or six years the knowledge of oil men concerning the conditions of that country has increased greatly and much territory is now considered as possible oil land or prospective oil land

that would not have been considered in the light of the knowledge then existing. Up to 1905 the general opinion among oil men in that country was that the appliances then in vogue and under the conditions then existing a 2500 foot well would have been a pretty deep well. At that time the depth to which they ordinarily sunk wells was from 1200 to 1600 feet, which was considered to be a paying depth. A well from 4,000 feet to 5,000 feet deep, or such a well as that drilled on Sec. 12, of T. 31-24, would not have been considered in 1905 as a venture into which a business man would enter, because they had no machinery at that time equal to the attempt. Since that time we have changed the drilling rig and we use what they call ideal irons or clutch to handle our pipe. We did not have the same weight of pipe or the style of thread necessary to carry the present weight.

In drilling with a standard rig we have to put casing in to hold up the walls of the well and to prevent the drilling cable and tools from striking against the walls and breaking them down. For that reason we carry a string of pipe all the time. [1431] That string must be kept free to be able to raise or lower to allow the formation that is caving on the outside to fall in, thus keeping the pipe free. The drilling tools are operated through this pipe and make a hole underneath and ream this hole out to the outside diameter of the pipe. It is therefore necessary to have a string of pipe that will stand the whole length of the well and hold together of its own force as it is not supported by the ground at all. This could not have

been done in 1904. There has also been a change in the cables used in drilling. At that time we were just starting to use wire cables but they were not protected so that we could handle them to the same depth that we do now.

I heard Mr. Mills read to Mr. Miley an extract from Mr. Youle's testimony concerning oil blow-outs being always a sure indication of the existence of oil. I do not agree with this because there have been many places where a number of seepages were found but no oil was discovered although they drilled all around these seepages. Mr. Youle himself had such experiences at Half Moon Bay and at Hollister. There are seepages all over the Half Moon Bay country and he drilled wells all through there and did not get oil. This same thing has occurred in the Los Angeles field, although I am not sufficiently familiar with the situation to tell the details.

CROSS EXAMINATION OF DAVID KINSEY.

In the cases I have been referring to of drilling in the vicinity of seepages, the wells were drilled all around so that if there had been any lead of oil running away from them it would have been found.

I cannot approximate how many holes were drilled around the seepages because the seepages were spread out in different [1432] places and they drilled in places that they thought the oil should be found and it wasn't there. Answering as to whether in my opin-

ion, where the drilling took place, there was a proper development accompanying the drilling, I will say that my opinion would have nothing to do with it, because I am not posing as an expert; I am only telling the facts. I do not know, as a matter of fact, that in the Half Moon Bay Country Mr. Youle did not designate the place where the oil wells were put down and that they were designated by some one else. If I should find that to be true, it sure would alter my estimation of the relation Mr. Youle bore to the unsuccessful termination of that well. So far as Mr. Youle having anything to do with the well at Sergeant, I don't know anything about it, and I do not want to pass any judgment upon Mr. Youle upon insufficient information. Never to my knowledge have I been in Township 30 South, Range 23 East. That is about seven miles away from the well which I drilled on Section 12, Township 31 South, Range 24 East. From my experience as an oil man, there surely could be oil and oil sands between my well on Section 12, in Township 31 South, 24 East, and the land in the south half of Township 30 South, Range 23 East, if there is an anticlinal fold plunging toward my well. I drilled a well in the southwest quarter of Section 4, 11 North, 23 West. That was a successful well and produced over one hundred thousand barrels of oil in twenty-seven days and netted the company about forty-two thousand dollars. We are drilling another well on that section now. The first well that we drilled that I have testified to, on Section 4, is between two and one-half and three miles of the foot-

hills. This well is further out than any other well that has got oil except the Carnation, which is out a little further and struck oil. We are down 2048 feet in this second well and we expect to get oil at 2800 feet. It is my opinion that the formation dips that way. As far as my experience goes, speaking of the whole [1433] Temblor Range, the oil sands extend to the point where I brought in this successful well on 4 and towards the Buena Vista Hills. The well which I testified about on Section 12, in Township 31 South, Range 24 East, is in the Elk Hills, pretty well to the east end of the Hills. At the time I first started in the oil business in the McKittrick Field there, or the McKittrick-Midway Field, whichever you wish to call it, the deepest well we had at that time was 450 feet. Along in 1902 and 1903 they began to go 1500 feet and they struck oil at about 1200 feet. If at that time they had believed that they could have found oil sand at 3000 or 3500 feet, they probably would have made an attempt to go down.

REDIRECT EXAMINATION
OF
DAVID KINSEY.

Prior to 1905, I would not have gone into a new country from seven to eight miles away from where oil had been found to sink a 3000-foot hole because we had not been able to sink that kind of a well up to that time and did not have the machinery and appliances to do it with.

There were other wells sunk in Township 31-24 in

the vicinity of the well that I drilled on Section 12, but there were none sunk on that section to any depth. The East Midway Company, the Esperanza Company and the Balfour-Guthrie people put down wells there. These wells were on Sections 2, 7 and 9 or 10. The Balfour-Guthrie well on Sec. 7 was 3900 feet deep. The Esperanza was close to 3000 and the well of the East Midway Company went to a depth of only about 1200. None of these wells struck oil and they have all been abandoned.

The total cost of the well drilled by us in Sec. 12, 31-24 was about \$90,000. In my opinion this was a medium cost for a well of that depth and it would not have been unusual if it had cost from \$130,000 to \$150,000. [1434]

I am certain that we could not have encountered oil in drilling this well and passed through it without discovering it.

When I was in the vicinity of Township 31-24 in 1903 or 1904, there was a well in Sec. 11 of that township which had been drilled by a man named D. E. Hoey. I think they abandoned this well at a depth of seven or eight hundred feet. They abandoned this well because they ran out of money and the association closed them out of their available visible assets and Hoey went to the penitentiary. They encountered some gas in this well. It is my impression that they encountered this gas about the first of December, 1904. It was not as early as 1901.

L. D. BELL,

A witness called and sworn on behalf of the Defendant, testified as follows:

DIRECT EXAMINATION

My name is L. D. Bell. I am a native of Mississippi and came to California in 1884 and have been here ever since. I went to work for Miller & Lux in Kern County in 1884. I worked for them for nine years on the Buena Vista Lake part of the time being at Headquarters Ranch as Superintendent. After I left their employment I went to McKittrick and began working for the McKittrick Oil Company. That would make it 1906. At the present time I am a driller for them. I have been in the oil business ever since I have been in McKittrick. Before going to McKittrick I knew the Elk Hills very well. They were called the Elk Hills because the Elk used to go up there. There were but very few of them at that time in that country and the elk used to come down out of the hills at night and feed in the alfalfa and the Egyptian corn and then they would go back into the hills to hide in the day time. There are a lot of elk there now. I have ridden into the Elk Hills a number of times on horseback. I used to go up there with a lot [1435] of the boys on Sundays and every time we went to a different point. I never observed any work going on there in those hills. I know that there were locations in there but after I went over to McKittrick I never went back into the Elk Hills. Some locations were made in the Elk Hills about thirteen years ago.

I can name the parties who made the locations all except three. One was Charlie Meaves, Jim Ogden, Superintendent for Miller & Lux, and Harry Robinson, who is now dead, and Tom Larkin, who was the bookkeeper, and Manuel Avila, who was the sheep boss. Mr. Meaves at that time was agent for the Southern Pacific at Button Willow. He was not an oil man. Mr. Ogden, who was Superintendent for Miller & Lux was not an oil man. Robinson was foreman under Ogden at the Button Willow ranch and he was not an oil man. Avila was Miller & Lux's head sheep man and he was not an oil man. I don't believe any of the men on that location were oil men. They located about eight sections. There were eight of them and I think they got eight locations. I don't know the townships or sections but they located from the dredger across the mountains. The dredger is right below the Elk Hills. It was known as Miller & Lux's dredger camp. It is five miles exactly east and south from Headquarters. I don't think they did anything with their locations. I think they just let them run out. They did not put up any rigs or sink any wells to my knowledge. I don't think they spent any money.

When I went over to McKittrick in 1906 I began work three miles west from McKittrick for the McKittrick Oil Company. I was well acquainted with the town of McKittrick and knew everybody in the town of McKittrick. Was in there nearly every day getting my mail. There was a whole lot of excitement there over the Elk Hills but I didn't take any interest in it and never cared anything about it. I don't know

just exactly when that excitement was but I know the time the Associated went in there. [1436] I am referring to the recent excitement. I don't know how long ago that was. I don't know whether others went in there other than the Associated except from hearsay but I know the Associated did because they went by our place. Before the Associated went in there I never heard the Elk Hills discussed as oil land. When I first went to McKittrick there was not anybody doing anything in the Elk Hills. Before I went to McKittrick fellows located the Elk Hills as oil lands and they were taking up considerable around there, jumping it as oil land and putting locations on it. I don't think they did anything with those locations, not to my knowledge. When I first went to McKittrick everything was shut down, all the fields were shut down; there was nothing started up until they got a new excitement in oil, raised oil to thirty cents and then everybody started to drill over the whole country. At that time the work was confined along the ridge of the Temblor range. It was later than this that the Associated went into the Elk Hills.

CROSS EXAMINATION

of

L. D. BELL

At the time this location was made in the Elk Hills by Charles Meaves and others, I thought they would put me down as a locator as they were all friends of mine and I wanted to get in but they had enough men besides me. At that time there were a number of

people that believed the Elk Hills contained petroleum and I believed they did at that time. The sheep Superintendent of the ranch and the agent of the Southern Pacific got excited at that time over the belief that the Elk Hills contained petroleum. I don't know whether or not these men ever did anything with their locations. What ever went on in the Elk Hills I had no personal knowledge of except what I might have seen when I had driven or ridden in there in some places. About the same time that these [1437] other locations were made Jim Waggy made a location over there with other parties. They put a cabin on the hill and it was there last winter when I went down there. I heard that Miley was located all over the Elk Hills. I don't think those Elk Hills have any value for agriculture or farming. I have been in the business of agriculture and grazing for a number of years. I know the value of agricultural land in that vicinity.

Those elk would come down in the night and feed on the alfalfa fields and go back into the hills for refuge in the day time. They didn't go into the hills to feed. They went in there for hiding. Those Elk Hills have no value for grazing at all seasons of the year. In rainy seasons flowers and alfileria comes up in portions of the whole country there and they have lots of feed. I would not give much for the Elk Hills generally as a grazing proposition. I would not regard it as of any value for grazing. If it had any value at all it would be possibly for its mineral value because it has no value for agriculture or grazing.

REDIRECT EXAMINATION

of

L. D. BELL

Miller & Lux's sheep run over the Elk Hills and they take the sheep in there for lambing purposes. In hard years they used to take them in there because the ground below was wet and they would take the sheep up in the hills and haul feed there for them as it was warmer there in the gulches. I hauled hay up there myself. In other years when there was rain in the spring the sheep grazed over those hills. I have heard of the Associated Oil well in there being a good well. I don't know what section it is on but I heard that the Associated had a good well. I am not interested enough at the present time in that country as an oil field to go in there because I don't think there is any chance to get in there now at all. I think it's all taken up. The Elk Hills are low foothills. They are a low range of [1438] mountains and you can drive pretty nearly all over them in a buggy except some places where you couldn't go where the ground was too steep.

RE-CROSS EXAMINATION

of

L. D. BELL

I was interested in getting a location thirteen years ago when those other men went in there and I wanted to get in but I was up on the Lake and I didn't get a chance to get in there with them. I felt awfully disappointed because they didn't put me in with them.

A. BANDETTINI, a witness called and sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION

I have been residing at McKittrick since 1897. I was there before that time from 1895 to 1896. I ran a feed yard there and a livery stable and a store. I was in that business up to two years ago. I am still residing at McKittrick. I was acquainted with H. A. Blodget. I worked for Blodget under Mr. Youle. I have known Mr. Youle since about 1896. I knew J. B. Treadwell. Everybody in that country had to come to my place as there was no other place to go. I knew Mr. Miley. I worked for Jewett and Blodget at Sunset. Mr. Youle was Superintendent. I heard lots of people talk about the different oil fields but I never paid much attention. I know the Elk Hills because I worked at old Headquarters. I have been through the Elk Hills. I first went there about 1894. Since then I have only been through the valley between Buena Vista Hills and the Elk Hills. There was sheep all through that country. I don't know if there was any mining going on in the Elk Hills before 1908. I never saw any work going on in [1439] there before 1905. Some of those French sheep herders paid rent for grazing to the Land Department of the Railroad Company.

CROSS EXAMINATION

of

A. BANDETTINI

I own eight town lots in McKittrick. I bought them

from the Railroad Company at two different times, four lots each time. In the deeds from the Railroad Company to me they reserve the mineral in the lands to themselves. I knew a man called Professor Owen. I have rented a team to him to go out in the country with. I knew a man by the name of E. T. Dumble. Treadwell came up there in 1899 and I think Dumble came after Treadwell left.

W. H. COOLEY, a witness called and sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION

I live on Section 21 of Township 31-23 in the Midway Oil field and have been acquainted with the territory in that vicinity for seven or eight years. I have been a resident of California for about twelve years. I came to Kern County in 1902.

I am the secretary and superintendent of the Eagle Creek Oil Company which is operating on Sec. 31 of T. 31-23 in the Midway. Prior to that time I was superintendent for the Midway Crude Oil Company on the same ground. I first became interested in the oil business about nine years ago in the Old Sunset field at Maricopa. Before that time I had an experience in drilling wells for water in New Mexico and Arizona. Since coming to California I have worked with oil wells as a tool dresser and driller and practically done everything connected with oil wells.

I am acquainted with the Elk Hills and first went there for the purpose of locating land early in 1909. At that time [1440] there was nobody in there. I lo-

cated in Section 18 of T. 31-24, Sections 4, 10, 11, 12 and 14 of T. 31-23 and also in Section 26 of T. 30-23. When I went in there at that time there was no development in the hills and we had to cut a road to get in. There was an old road leading from the Buena Vista Lake through the valley south of the hills to McKittrick but it had not been traveled on for so many years that it was washed out and we could not make use of it without a lot of repairs. Other than a few sheep camps there was no life in there at all when I first went in in 1909.

At that time I went from the east line of the hills as far as McKittrick on the backbone of the anticline and I did not see any development. There were some wells about a mile or so from McKittrick but they were not considered as being in the Elk Hills. I saw some location notices in various places in the hills but I was unable to determine their dates at that time as I could find no notices that were legible. They appeared to have been there for a very long time.

In Sec. 32 of T. 30-23 I found where some trenches had been dug showing some gypsum. This work looked as if it had been done about a year prior to the time I went in there.

I went to the vicinity of McKittrick for the first time about nine years ago and at that time I went clear through from Maricopa to the Devil's Den and back, looking over the ground for a proposed pipe line that was to go through the north Midway. At that time the development at McKittrick covered a

little narrow anticline three or four miles long west and north of McKittrick. There was no development, to my knowledge, toward the Elk Hills. I am familiar with what is known as the Belgian Wells northeast of McKittrick along the western terminus of the hills. They are in broken country and now in the Elk Hills proper. I don't know of my own knowledge that they produced any oil. I have seen them but I saw no evidence of their having produced oil. There [1441] was some oil there but it may have been hauled there and lost out of their fuel tanks. When I went there nine years ago they had a watchman on the property but the rigs were pretty badly dilapidated and they were not being operated.

There was no development to my knowledge further out from McKittrick toward the Elk Hills beyond the Belgian Wells and I did not hear of any development in the Elk Hills at that time.

At that time I did not hear of the Elk Hills being discussed as possible oil land. There was, however, some suspicion that there might be oil in the Midway at that time. The first time I heard the Elk Hills discussed as possible or prospective oil territory was in 1909.

After the locations I have spoken of as being made in 1909, we erected four derricks on Sec. 18, T. 31-24 and drilled one hole 250 feet deep and another 1860 feet deep and then suspended operations. This work was done for the Kern Midway Oil Company. The Mercedes Oil Company drilled 1640 feet deep on the northeast quarter of Sec. 10, T. 31-23. The National

Midway Crude Oil Company drilled 3200 feet deep on Sec. 8, T. 31-23, This latter well was the only one that had a showing of oil which consisted merely of some colors appearing on the surface of the water in the slush box during the drilling, and also some gas. No oil was produced from this well or from any of the others I have mentioned.

These various companies expended in all about \$165,000 in drilling the wells I have mentioned.

The well on Sec. 18, 31-24 was started in April, 1910, and we suspended drilling operations in February, 1911. Since that time we have suspended operations waiting to see what our neighbors might get on the adjoining sections.

The 3200 foot well on Sec. 8 of T. 31-23 is not now being drilled further and recently we were working on it trying [1442] to shut off the water and we think we will finish the hole sooner or later as soon as we feel like putting our money into it.

I guess the only occasion we had to go in there in the first place was to take a chance on it. We told everybody that put money in it that it was a gambler's chance and they put it in with that understanding, and nothing has occurred since that time to change my mind about it; I think it is a gambler's chance yet.

There is no certainty of finding oil within half a mile or mile of a well which is producing oil. I find that there is a great deal of difference even between locations as to the character of the oil and the amount

that wells will produce. I think the oil occurs in kidneys, or pockets and saturation in the sand beds is more prolific at one place than it is at another. There are many wells in commercially producing territory which are not profitable. In other words oil is where you find it and the only recognized method of determining its presence is to drill for it.

I do not think it possible for an experienced geologist to determine whether a particular territory that has not been developed is good oil territory without sinking a well. I do not think a practical oil man would place much confidence in the report of geologists of the presence of petroleum.

I do not think that the prediction in Bulletin 406 of the United States Geological Survey that oil could be found in the Elk Hills at a depth of 800 to 1400 feet is well founded. We did not find it when we drilled for it and reached the depth stated in the report where we ought to find it. If this bulletin meant that oil would be found at a depth of 5,000 feet within the Elk Hills, I might take a gamble on finding it, if I had plenty of money, but I would not do so because of the geologist's report. They generally tell us where the oil is not. I do not go on geologists' reports at all.

In 1904 I do not think that a 5,000 foot well would [1443] have been considered a possibility in the California oil fields. At any rate not in the Midway fields, as we did not have the facilities for going that deep. As late as 1904, 3400 to 3700 feet was considered as a

maximum. Since that time there has been a great change made in the methods of drilling and in the equipment and appliances used and they are still being improved upon.

I would not advise any one who is anxious to invest money to sink a well in the Elk Hills at this time, because I do not want to get any of my friends in bad, because I drilled there. I do not think you could get a return on the money commercially speaking. I do not think it would produce petroleum in paying quantities. I would not recommend investment myself. It would be extremely hazardous at any rate.

CROSS-EXAMINATION

of

W. H. COOLEY.

The location in which I am interested and in which I was one of the locators on section 26 in Township 30 South, Range 23 East, I believe is leased to the Associated Oil Company with an option to purchase. I might have built two or three houses on that section but they took the ground over. My first experience in the oil business was the drilling of a wild-cat well in Mexico sixty miles from Galop. All the rest of my experience in the oil business has been during the last nine years in California. All I know about the geological formations in the McKittrick country is what I have read and I had investments that used to bring me in contact with the well reports. I also accompanied geologists over the field. I am not prepared to testify under oath that a well drilled eighteen

hundred and sixty feet in the Elk Hills will prove either the presenec or absence of petroleum deposits. When we started to drill in the Elk Hills we figured on going about fifteen hundred feet. Our wells were situated on [1444] the flank of the Elk Hills. They were not on the back bone of the hills and it seems to me as a practical oil man to be demonstrated that our wells would have to go deeper than they otherwise would have had to go than if they had been properly situated on the anticline but we had to drill our wells where we did so as to get them on our land. The fact that our land was not situated favorably for drilling of wells may have been the cause of our failure. The territory was good territory, I think. I don't want to be understood as condemning the entire Elk Hills on account of those few wells that we put down. There may be some wells there that have not yet been started. They might discover petroleum there at a very shallow depth. I don't go anything at all on geology in the location of oil wells but I wouldn't drill in the Tehachapi Mountains because that was too far away. You have to find some surface indications, such as fossils, that are present on the surface in oil bearing formations or country and there is numerous rocks and float that are closely related to petroleum that we find and where we find it we are more likely to think there is oil there than some other place where there is no stuff of that kind. So far as the surface is concerned I pay some attention to geology and I want some surface indications

of the presence of oil before I drill. The character of the formations and the indications of oil seepages and gas blow-outs are the strongest indications of the presence of oil.

In determining where a well shall be drilled I do pay attention to surface indications, such as oil seepage and gas blow-outs.

I do not think the lands in the Elk Hills have any value as farming lands. If they had some water they would grow grain all right. The character of the soil is such that it would support vegetable life all right. It is very prolific if you have water. I do not know of any chance to get water there [1445] but I have never given that matter consideration. We struck water in the wells I have referred to about a depth of 400 feet at one time and considered using the water for our development purposes.

REDIRECT EXAMINATION

of

W. H. COOLEY.

I do not regard the surface indications such as oil seepages, gas, blow-outs, etc., as being indications of finding oil in profitable quantities. These indications extend clear along the Temblor Range and there have been numerous wells drilled along them that have not been commercially profitable. These surface indications are more marked in the Devil's Den territory than they are in the Midway but no oil has been discovered in commercial quantities there. There is a great difference in oil that can be obtained in com-

mercial quantities and oil that will suffice for a discovery.

We have always been vitally concerned with sand croppings in relation to petroleum deposits and it is just a matter of guess as to which side you get on. Some will say one side and some the other. If you don't get it you ought to be on the other side, and you never drilled on the other side and you never find it unless it is defined which way the dip goes and demonstrates that there is a petroleum outcrop with petroleum in it. For my part I would rather drill near a gas blow-out than near a so-called sand outcropping that shows dry. A gas blow-out shows life and it might come from petroleum and you generally find oil in greater or less quantities where there is gas. If you don't find actual gas but you find sand that has been discolored by gas that is a very good indication. The only way you can find out whether there is oil or not is to sink a hole. Of course surface indications are important. I wouldn't try for oil in a [1446] country that don't bear any surface indications whatever of the presence of petroleum, such as the surface indications that we find in an oil country but if we don't know that the surface indications were related to petroleum I would be as likely to drill in the Tehachapi range as in the Sierra Nevada range or any other range.

H. C. GOODYEAR

A witness called and sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION

My name is H. C. Goodyear and I live at McKittrick. I went there first in 1902 and remained there for three years and was then gone for three years and came back in 1908 and have been there ever since. Prior to my going to McKittrick I was around Bakersfield and the Sunset country going to the latter place in 1900. Since I have been at McKittrick I have been working around the oil fields in every capacity from a roustabout to a superintendent and have been engaged in actual practical field work in the development of oil.

I have had experience in other kinds of mining, practically every kind except coal mining. I have mined all over the Pacific Coast and in Alaska and in the Philippines.

Although I passed through the Elk Hills in going hunting in 1903 or 1904, I went in there first for the purpose of examining the hills in 1910. When I went over there first I observed no mining of any kind going on there and heard of none.

When I first went to Sunset in 1900 I observed the work that was being carried on by Jewett & Blodget there. Most of their drilling was on the north foothills of the range. There was a little work going on in the flat but it did not amount to much and would not extend beyond a mile from the hills at the most. Going [1447] from there toward McKittrick there were several companies drilling along the foot of the range at a mile or two miles possibly, but they were

principally propectors. At McKittrick the development was toward the northwest for a distance of five or six miles along the hills but it did not extend toward the Elk Hills and there was no work going on there to my knowledge, nor did I hear of any.

Prior to the time I left McKittrick in 1905, the general opinion amongst oil men was that the oil extended right along the range of hills that lie back of McKittrick and ran in a northwesterly direction toward the Temblor. I never heard of the Elk Hills being considered at that time as oil land. I knew there were locations made all over that country, however. The Kern River oil discovery had been made shortly before I came into that country in 1900 and as a result the whole country was covered by mining locations. Everybody that had money enough to get out made a location, if he could find some open land and these locations were in places ten miles from actual discoveries. I have observed the same sort of thing in surrounding camps where there has been a gold excitement. Everybody rushes in to get a location and the country soon becomes covered in every direction.

During the time I was in McKittrick between 1902 and 1905, I was in touch with what was generally going on in that vicinity with reference to oil development and was very much interested in the discovery of new territory. I was personally acquainted with all the oil people in the field at that time and we discussed the situation at different times whenever we

would meet and talked about the localities around there where oil was discovered or was likely to be discovered. I never heard the Elk Hills mentioned in any of these conversations.

When I returned to McKittrick in 1908, there had been no work done, to my knowledge, in the Elk Hills. Since that time [1448] there has been a great deal done in there, the first of which was done in the summer of 1909.

According to my experience the opinions of experts as to the presence of oil would be of no value to me at all. The way to determine where oil is, is to put down a drill. I have had experience with one geologist in particular, and I never knew him to locate anything that was any account. I am referring to Mr. Owen.

According to my observation in the vicinity of McKittrick the oil production is not uniform as the field is undoubtedly spotted. You can get a good well in one place and 100 feet from there you may get a dry sole. It is my experience that having a producing well at one point is no assurance that a producing well can also be found a mile away.

S. J. DUNLOP, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

I live at Taft, California, where I have lived for the last three years. Prior to that time I lived in Los Angeles, San Francisco and other places in California. I have been interested in what is known as Twenty-five Hill in Kern County in Township 32-23

since 1900. At that time I promoted the Mt. Diablo Oil Company and we commenced actual development on Sec. 26 of that township. I was in charge of the development of this property. We put a well on each quarter of the section and made our discoveries of oil and obtained patent from the Government. After that there was quite a slump in the oil business and we let the property lie until a railroad had been built in there and until there was further development, at which time we resumed our work. This was about three years. This property is now known as the Dunlop Oil Company property and is producing oil. I am a direc- [1449] tor and superintendent of this company.

During the time I have been connected with these properties, I may say that I have been over the entire west side field. I was in McKittrick years ago a few days every week or so and with the exception of the last ten years I have kept in touch in a more or less general way with what is going on in McKittrick. From 1900 to 1905, the actual production territory of McKittrick was west of where the town is located and back in the hills, and there was no production of oil between McKittrick and the Elk Hills that I know of. The oil men generally who were interested in that district thought it was limited to the territory that is now developed.

Prior to 1905, I never heard anybody say that they considered the Elk Hills as being oil territory. In fact, the first time I heard it spoken of as even prospective oil territory was about two years ago.

I went into the Elk Hills in 1900 with a man named Graham who, I believe, is now dead. We went in to see if we could locate an outcropping of sand such as we had found further back in the hills on the main range where we are now operating. We made no locations as a result of this trip, however.

I did not see anything there to give evidence where it might be oil territory. There was nothing there to show.

I have not changed the conclusion I reached at that time and I do not believe that the Elk Hills are oil territory today. If there is an oil bearing sand there, I think it is too deep to reach so as to obtain a production of oil.

Prior to January 1, 1905, the general impression among oil men was that the Midway flat which is now very productive, could not be considered as oil territory. There were locations made all over the flat from the north end clear through to Sunset and there was some development that produced failures. As a [1450] consequence at that time we thought that the oil bearing region was along the foothills.

It is my experience that the only sure way in which to ascertain whether oil exists is by means of the drill.

CROSS EXAMINATION OF S. J. DUNLOP

In 1899 I was a conductor for the Southern Pacific Railroad Company and had had no experience in the

oil business. I left the employment of the railroad company in November 1901 and prior to that I was granted leaves of absence and it was during one of these that I was superintendent of the oil company I have referred to, in its operations in the Midway.

I remember the Honolulu Oil Well coming in about two years ago and I remember that it caused a great deal of excitement in that vicinity.

After my trip with Mr. Graham into the Elk Hills in 1900, I did not again visit them until about two years ago. During the last year I made about ten trips into the hills.

REDIRECT EXAMINATION OF

S. J. DUNLOP

My conclusion as to the present value of the Elk Hills as oil territory is not based solely on my visits of 1900 but upon what I have been given to understand as to the amount of development that has been done in there and the reported failures. I have had occasion to observe some of this development work myself and have visited some of the wells that have been abandoned and the materials taken away. [1451]

FRED H. HALL, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I live in Bakersfield, California. Bakersfield has been my home for about four years. Before that time I lived in Visalia. I am forty-four years old and was born in California. I am engaged in the oil business,

the water business and garage business and farming, and am vice-president of the Bakersfield Board of Trade. I am connected with the Visalia Midway Oil Company operating in the southeast quarter of Sec. 25, T. 31-22 in the Midway district. This company is producing oil and is operating three wells. All of my oil experiences has been confined to the Midway field.

I first became familiar with the Midway country either in 1900 or 1901. I used to go to McKittrick and hire a team to go to the property that I speak of in the Midway field, and we also got our supplies from McKittrick. I was familiar in a general way with the country in the vicinity of McKittrick where the oil development was going on at that time. This covered the ground lying immediately west or northwest of McKittrick adjoining the town and from there either north or northwest along the main range about two or three miles.

At that time the developed or known oil territory did not extend down toward the Midway from McKittrick. In 1901, I believe, they got oil near Taft. I know that when I first went in there the Bay City was drilling on Section 25 near Taft in T. 32-23.

In 1905 the development in the vicinity of McKittrick was practically the same as I have described it for the earlier years. Going down toward the Midway there was an increase in the development around Taft and there had been two or three wells drilled around McKittrick but not to any great depth, and [1452] they had not produced any oil.

I am familiar with the Elk Hills and believe that I was in them first in 1901 for the purpose of looking around, as we were then hunting for oil land to locate. We did not make any locations in the Elk Hills at that time, however. From 1900 up to 1905, I was familiar with the general impression of practical oil men in that field as to the limits of oil territory. The general opinion at that time was that the oil bearing territory was confined to the small strip from McKittrick west or northwest and a small territory around Maricopa and around Twenty-five Hill. I think they considered the oil bearing territory as extremely limited. The general belief was that the territory between McKittrick and Twenty-five Hill was not oil land.

During this same time it was generally conceded that the Elk Hills were not oil territory. At that time I would not have invested any money in a well in the Elk Hills and would have thought that a man who went in there to start a well at that time was either more reckless or had more nerve than I had.

I think that development in the Elk Hills commenced about three years ago. I remember the fact very distinctly but I cannot fix the time exactly. Since that time I have been in the Elk Hills and have kept in touch with the general situation, particularly with the Kinsey well on Sec. 12, T. 31-24.

Basing my statement upon my knowledge of the Elk Hills from the time I first went into that country up to the present and upon my experience in the oil

business, I do not consider the Elk Hills to be oil land today. I have never seen anything there to lead me to believe that it is oil territory, although I was interested with same people who made locations in there and put my name in on the locations. I held the interest that I gained in this way for a short time and then sold it and have [1453] never attempted to acquire any interest there and have no desire to do so.

I remember distinctly the report of oil being struck in the Kern River field in 1899, I think. As a result of this strike a great many people went all over the country and located on anything they thought might possibly be oil land and in many instances these locators were men who never had had anything to do with the oil business. These locations were made all over Kern County. Such locations are no indication to me of the existence of oil.

CROSS-EXAMINATION OF FRED H. HALL

When I first became acquainted with the territory in 1900 or 1901, I went there for the purpose of finding land to locate for myself and a number of associates. Previous to that time I had had no experience in the oil business but had been a deputy sheriff and had held other similar positions.

The only way to absolutely determine the presence of petroleum is by drilling a well but attention should be paid to geological formations and physical evi-

dence on the surface of the ground in determining where to begin drilling.

Oil sands generally have some uniformity in the direction in which they dip from the outcrop, except where they are broken up. It was the general belief among oil men in the West Side field in 1901 and after that time that such continuity might be expected. In regard to the extent of the oil territory in 1901, I heard it variously estimated by different people. Some oil men thought that the strip was not more than half a mile or two miles wide. Some of them contended that it was very narrow in places and wide in others, but the general opinion was that the belt was confined to a narrow strip along the eastern slope of the [1454] main ridge of hills.

Some thought that this would run out in the flat while others contended that if you get down off the hills no oil would be obtained at all, and I shared in this general belief. Our location in Sec. 25, 31-22, was right at the base of the hill. It ran out on the flat about three quarters of a mile.

When I first went into the Elk Hills I cannot say that I thought there was a probability of oil being there but I thought there might be a possibility. I don't know that I had fixed opinion as to these hills. I went there to see what the country looked like but I did not find anything that I thought would warrant me in doing anything and consequently came away without doing so.

If I had believed at that time that there was oil at a depth of 1500 feet, or in excess of that, it is hard to

say what I would have done but I probably would have located the ground.

The locations in the Elk Hills on which my name were placed by others, was made about three years ago, and before the withdrawal order of September 27, 1909. After I found out that I was a locator, I think I put in \$1,000 or \$1100. I did not do this because I had any confidence in the ground but as my friends had gone into the matter and as they seemed to have a great deal of confidence and had declared me in, I put up the money.

I later had an opportunity to sell out my interest to one of my associates who paid me just twice what I had paid in. If I had believed that oil could be found at a depth of 4,000 feet at the place where these locations were made, I certainly would have held on to my investment.

REDIRECT EXAMINATION

of

FRED H. HALL

In saying that it is safe to assume that an outcropping [1455] of sand will continue for some distance in the absence of evidence of disturbed conditions, I do not mean to say that it is safe to assume that this will be true for several miles. Just how far the assumption can be safely made depends upon conditions. [1456]

H. W. THOMAS, called on behalf of the defendants, having been first duly cautioned and solemnly

sworn to testify the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

I live in Bakersfield, California, where I have been living for twelve years. I am engaged in the business of producing oil and have been engaged in the oil business generally in and around Bakersfield for the last twelve years and also in the Maricopa District and the Midway field.

I am a director of the W. T. & M. Oil Company, which has property on 25 Hill in the Midway District. I am also a director of the T. W. Oil Company at the same place and own the lease of the Tamalpais Oil Company. I am a director and Secretary of the Midway Premier Oil Company at Fellows, and also of the Midway Peerless Oil Company in the North Midway field as well as of the Alberta Midway Oil Company. I also own the Fox Oil Company lease in the North Midway.

All of these properties that I have mentioned and others with which I am connected are producing oil at the present time.

I first went into the West Side Oil fields in 1901, at which time I went to 25 Hill where I am now interested. During that year and the following year I was also at McKittrick. At that time the oil production in the Midway field was on 25 Hill.

The development at McKittrick was about where it is now, that is a little north and west of the present town of McKittrick.

After 1902 I did not go to McKittrick again until 1906 or 1907. At that time the developed territory had extended a little to the north, but had not widened out much.

In 1901 and 1902 the general impression among oil men was that the oil territory developed on 25 Hill in the Midway was about all there was and that the extent of the territory at Mc- [1457] Kittrick was about covered by the development then existing.

I first went into the Elk Hills in 1901, at which time I was driven over there by a man from Bakersfield, whose name I do not remember at this time. I went from 25 Hill on the Midway through the Elk Hills and then to McKittrick. We made this trip for the purpose of locating some land, but I cannot say what township or section we were on, but we went to a place north and west of the Buena Vista Lake and four or five miles from the Lake. We made some locations but I never even placed the notices on record and never did any work on the ground.

At the time when we went over to the Elk Hills to make these locations I had never heard any oil men say that they considered the Elk Hills as oil territory. During the last three years I have been over in the Elk Hills a number of times and have traveled over a good part of the hills but have had no interest in any claims over there. I have, however, kept in touch with what has been going on over there.

I bought some of the material that was used by the Monsoon Oil Company in drilling a well in the Elk

Hills as they were through with it and had abandoned the ground.

I do not think that the Elk Hills have been proven to be oil land. I say this because I know of a well that has been drilled there to a depth of 4800 feet which did not find any oil. If I had an opportunity to get land there for the purpose of sinking a well I would not do it nor would I advise anyone else to do so with the expectation of producing oil in paying quantities. I would not advise anyone to sink a well there as a gamble even.

When I first went into the West Side fields I was familiar with the work carried on by Jewett & Blodgett. They were carrying on the work under Mr. W. E. Youle as their Field Superintendent and he was the first man with whom I became acquainted [1458] in that country. All of this work in the early years of the field was done in the low hills right in the main range you might say and none of it extended on to the flats. After Mr. Youle quit working for Jewett & Blodgett he was in charge of work for other people in the West Side fields and I do not know of any of his operations extending out into the flat. All of the earlier wells drilled by Mr. Youle for Jewett & Blodgett were small, shallow wells and I do not think that they were successful from a commercial standpoint.

All of the development out on the flat in the Midway and in the Buena Vista Hills has taken place within the last four or five years.

I have had no experience in developing untried ter-

ritory. I think it is generally conceded by oil men that geologists know more than the average man as they are peculiarly fitted for that sort of work by their study and knowledge. But some of the productive fields were originally turned down by geologists. I suppose that these fields have been developed by practical oil men or by people who are not geologists because of indications that would appeal to a geologist just as they would to a practical oil man. The Bellridge Field was opened up by a man who had practical experience in the oil business but who was not a geologist. I do not know whether this field was turned down by geologists, prior to that time, but I do know that several big companies had geologists out through the Bellridge territory a long time before there was anything done there. In fact all the fields I know of were developed by companies not guided by a geologist or a geological report.

CROSS EXAMINATION
OF
H. W. THOMAS.

By Mr. Mills: [1459]

Q. Mr. Thomas, what fields do you refer to which were turned down by geologists and afterwards developed into oil fields?

A. Well, I will qualify that remark of being turned down, the fields being turned down.

Q. All right, what do you mean, then?

A. The Bellridge has developed into an oil field, and I understand—now, I can't say of my personal

knowledge, because I never talked to a geologist in my life.

Q. Mr. Thomas, before you complete your statement, I want just what you know yourself, not what you have heard?

A. Well, I don't know of any oil field that was ever turned down by a geologist that afterwards developed into an oil field. I don't know, because I never talked to a geologist.

Q. Now, do you know, as a matter of fact, that no field in California with which you are acquainted has ever been reported favorably upon, prior to its development, by a geologist, of your own personal knowledge?

A. I said that the fields were developed by people, either companies or individuals, who hadn't any geological report on that field; they didn't go in there because of any geological report.

Q. Now, do you know, from your own personal knowledge, Mr. Thomas, that none of the companies which went into these new oil fields in California were guided by geological advice before they went in there?

A. Well, I will take the fields that I know of.

Q. Yes. Those are the ones I want.

A. The Bellridge field—or, to go back earlier than that, as I remember, John Conley drilled the first well in the Midway field. He and Spellacy went in on 25 Hill. I know that neither one of them ever saw a geologist in regard to that field. I know that. [1460]

Q. Do you know, as a matter of fact, from your

own personal knowledge, that neither one of them ever saw a geologist in regard to that field?

A. Yes sir.

Q. How do you know that of your own knowledge?

A. Well, I have talked to both John Conley and Tim Spellacy.

Q. Well, then, you know it from what they told you, don't you?

A. Oh, yes. I have not been with all the geologists all their time, so as to know they didn't talk to them.

Q. Now, let us understand each other, Mr. Thomas. I am asking you whether you know, from your own personal knowledge that none of the companies or persons who went in and developed these new fields were guided by geological advice with reference to the development of the particular field in which they operated?

A. Now, if I must answer that question by stating that I know they didn't talk to a geologist, I would say that I don't know that they didn't.

Q. Then, as a matter of fact, from your personal knowledge, you don't know, and don't want it to appear on the record, that in any one of these fields the parties who developed the fields were not guided by geological advice as to drilling upon that particular field?

A. Only from what the men who actually drilled the first well told me.

Q. Well, I say, from your own knowledge?

A. That is all I know. From my own personal knowledge—

Q. You don't know anything about it, do you, from your own personal knowledge?

A. No.

Q. Now, as to the Kern River field, that field differs quite materially from the West Side field—and by the West [1461] Side field I mean for twenty miles, from above McKittrick down to Sunset—in what we might term or designate the surface ear-marks of the presence of petroleum underneath the surface, does it not?

A. I don't think so.

Q. Don't you consider that the Kern River field, which I understand to have been discovered quite accidentally, has very few of the conspicuous surface evidences of the presence of petroleum as compared with the West Side field?

A. The Kern River was not discovered accidentally.

Q. Well, I am not stating that as a fact.

A. No.

Q. I am simply stating what I understand to be the fact from previous testimony.

A. There were sand-croppings there and gas blow-outs, and had been forever, probably.

Q. Those sand-croppings and gas blow-outs are, in your opinion, indications of the presence of petroleum?

A. Well, they are in that case, and they are in some cases and in some cases they are not. There was oil there at some time. Wherever you find a cropping of oil-sand there was oil there at some time.

Q. To be sure. Now, those evidences, that is, gas blow-outs and sand-croppings, I believe you call them?

A. Yes.

Q. You mean oil-sand-croppings?

A. Yes.

Q. Are generally taken among people who know the subject somewhat thoroughly as evidences of the existence of petroleum underneath the surface either then or at some previous time? Is not that correct?

A. Yes. [1462]

Q. And people, even practical men, as you term them, practical oil men, are guided, when they have no geologists who know more of the subject than they do, largely by those conspicuous physical evidences that they find in explorations of the land?

A. Yes sir.

Q. Such as gas blow-outs and seepages?

A. Yes.

Q. Now, isn't it a fact, Mr. Thomas, from such knowledge as you have acquired as an oil producer and in your talks with men who perhaps know more of the subject geologically than you do, that petroleum occurs in depositions, such as sands or shales which have somewhat of a uniform persistence underneath the surface, that the oil collects in these sand shales, which are laid down by depositions or deposits in the first place? Is that your understanding of it, Mr. Thomas?

A. Yes sir.

Q. And these oil-sands or shales, being deposited by former or ancient bodies of water, perhaps, have some uniformity or persistence for quite a distance?

A. Yes sir.

Q. In all directions?

A. Yes sir.

Q. Somewhat in the nature of coal deposits or measures of coal?

A. I should imagine.

Q. Yes. And that where one finds, at the line of contact with the mountain range, and oil-sand-cropping which is exposed there, showing evidences of stain peculiar to petroleum saturation, a gentle dip or angle off towards the valley, then one may assume, from such knowledge as you have from practical experience, that that oil-sand will persist for quite a distance [1463] off into the valley? Is not that true?

A. As a rule, yes sir.

Q. There is no limit that you know of by which it may be determined where that stops, until it is broken up at some place?

A. No sir.

Q. Or met by another mountain chain?

A. No sir.

Q. Is not that true?

A. Yes sir.

Q. So that that geological fact, and taken in connection with the oil-sand-croppings and the gas blow-outs, as you have termed them, give one an idea of the probability, generally, of the presence of petroleum

for quite a distance in some direction away from that oil-cropping?

A. I would not say "probability". I would say "possibility".

Q. Well, there is no reason for you to assume that that oil-sand stops at any particular place, is there?

A. Only we found that it does.

Q. Well, except where it has been disturbed or interrupted by some convulsion of some kind, you don't know where the sand stops?

A. There is no way to tell from the surface.

Q. No.

A. Unless it is broken up some place.

Q. So that if you sink a well near the line of the out-crop and you find a petroleum deposit at say six or seven hundred feet, and measure back to your angle from which the same plunges off into the valley, and find that your calculation is about right, it is safe to assume that if you go further out you may still find oil-sand at perhaps a further depth?

A. Not safe; but we do it.[1464]

Q. Safe to assume that?

A. Yes.

Q. And you do it?

A. Yes.

Q. And unless you find there has been some breaking in the formation so as to allow this oil to waste or escape, or so as to interfere with its general uniform persistence, you would expect to find, as a prospective driller, oil still further out, would you not?

A. Yes.

Q. Unless it has been interrupted?

A. Yes; unless there has been a break.

Q. That is to say, if the structure is uniform throughout, and there is no evidence to your mind, that you can see, of any jamming up or breaking up of the structural form, you would expect to find it at any distance out until you found where the oil-sand had stopped?

A. Yes.

Q. Isn't that true?

A. Yes.

Q. Now, that is the theory, I take it, among practical oil men?

A. Yes.

Q. And they gather to their aid these geological evidences that they know of themselves?

A. Yes sir.

Q. Through the avenue of their own senses?

A. Yes.

Q. Without being told by geologists?

A. Yes. [1465]

Oil sand croppings and gas blow-outs are considered by practical oil men as encouraging indications in exploring for wells.

Then an oil sand cropping is exposed and the geological formation shows that it dips off toward the valley from the ridge where it is exposed, it was the general impression amongst oil men even in the early days when I went into the West Side fields, that there

was a possibility of that oil-sand continuing in its dip, but I would not say that this was considered to be a probability as we found in many cases that this oil sand did not so continue because of interruptions that could not be determined from surface indications.

Yes, that was the accepted theory, and it is today, that where you find a cropping, that is, a live cropping, if you go out and follow it out, if it goes out and don't go too deep, and still prevails, you will get oil.

I know that there has recently been some showing of oil in the Elk Hills but I have considered that territory and do now consider it as being problematical and too deep for practical purposes and have begged friends of mine to stay out of there because I did not think the land was worth a cent.

I do not pretend to have any actual geological knowledge of the Elk Hills and it is possible that I advised my friends to keep out of there because I had a "hunch" that the hills were not oil territory.

I know that it is possible that a rotary drill may sometimes pass an oil-sand and I also know that any territory where we have [1466] no mechanical difficulties in drilling, we sometimes find that in moving over from one location to another we will get out of the oil-sand because of the change or disturbance of the uniformity of the sand. I have know of this to, occur in McKittrick and also in 25 Hill.

REDIRECT EXAMINATION
OF H. W. THOMAS

The changes in the oil-sands revealed by wells of which I have spoken were not indicated by anything on the surface. It is not assumed by practical oil men that an oil-sand found at a particular place would continue uniformly so that you could safely expect to sink a well seven or eight miles away from there and strike the sand. Even within one mile it would be a gamble.

The sand may end at any time, and that fact is known by geologists, and by the best of them; because I know and you know that the best companies over there, and with the best geologists, have drilled a lot of dry holes. They have gone down awfully deep, expecting to find sand at a certain place, and it is not there. So, I don't know, and no man knows, and no man can tell, where it is going to end.

The existence of a gas-blow-out or sand stained by gas, indicates that at some time and at some place there was some oil, whether it was ten miles away or ten miles deep. I know of places where these indications exist or wells have been drilled and no oil found.

The men who I endeavored to persuade not to go into the Elk Hills were Mr. Spellacy, Mr. Greene and Mr. Hutchinson. They started drilling in the Elk Hills but they are not operating there now. They have quit.

In my opinion a location in the Elk Hills at the present time would be a pure gamble. It is true that

my impression concerning the hills is what I have called a "hunch" but it is backed up and created by certain conditions that I know to exist there. [1467]

R. K. HOWK, a witness called and sworn on behalf of the plaintiff, testified as follows:

DIRECT EXAMINATION

I am now living at Taft in Kern County. I first went into the West Side oil fields in 1900 at which time I went to Sunset. From that time on I stayed most of my time at McKittrick for about four years. I was operating at McKittrick on Section 13, Township 30-22.

At present I am engaged in buying and selling oil well machinery and have been since March of this year. Prior to that time my business was selling oil land and inspecting oil land for different people. I have had practical experience in the development of oil land since 1900 when I began the development of this piece of property in McKittrick but it produced water rather than oil. My associates and I then bought a piece of property right in the center of the McKittrick field in section 19, Township 30-22 in which we drilled three wells in 1902, each of which produced an average of thirty barrels per day.

For about a year and a half I was superintendent of what is now the Associated Oil Company's producing property in McKittrick and had charge of all of the drilling. I also had charge of an oil property in Ventura County up to about two years ago. I have also had experience in the Midway field in Section 26,

of Township 31-22 where I have had full charge of drilling the wells.

Since 1900 I have had considerable experience in prospecting for new oil land. During the early years while I was at McKittrick I was interested with others in a well at Carneros Springs above Temblor where we drilled a well which was situated between the Carneros Springs and what is now the Bellridge field. We started this well because there was some indications there which we considered to be oil indications. We got nothing, [1468] however, except water, although we went to a depth of 1700 feet.

I am familiar with the Elk Hills and first went there in 1901 and 1902. I was last there during February or March of this year.

From 1901 up to 1904 while I was living at McKittrick I was familiar with the development that was going on around there. It covered what is now the producing field at McKittrick, the actual development being along the low range, north of the railroad. Several companies drilled what they considered to be deep wells there. Several of the companies went part way out on the flat away from the hills and drilled wells but got water and drew back toward the hills. The general opinion was that the oil lay in a very narrow strip through McKittrick. This had been demonstrated quite early in the development because wells very early were drilled that got outside of the oil belt.

Even in the territory extending down toward the

Midway, the belief from 1900 up to 1904 was that the development should keep to the hills. We had no machinery to go deep enough to catch the oil in the flats that was there and the general belief was that the oil was on the main range, what is now called the Temblor Range. When I went to look at the Sunset properties during these early years, it was Mr. Youle's belief that the development should stay on the Hill Range. He told me to stay with the hills because he had tried the flat and had not got anything. I remember that he was afraid that the flat was too deep for the machinery we then had to handle. His idea was that the oil was along the foot of the range to the north of the cropping that shows back of Maricopa.

The first trip I made into the Elk Hills was in company with Mr. Blodget. It is my impression we went into township 30-23. I remember we came out on the west side of that township. He wanted me to drill a well in there if I could [1469] raise the funds to do it. I looked over the ground with him and went back there myself a week or two later to satisfy myself whether I cared to put any money into it or not. I came to the conclusion it was very risky and did not invest any money there nor did anyone else to my knowledge.

From 1900 up through 1904 the Elk Hills were not generally considered by oil men to be oil territory. There were a great many men who were in there who were novices like myself, but I do not remember any-

one who was willing to put any money in the Elk Hills even to drill a prospect well. It was impossible to get a man to give it a thought as long as he could go somewhere else where there was production. The wells drilled right in the hills in front of McKittrick, which hills were an extension of the Elk Hills, had been producing nothing, and the Elk Hills were not considered to be oil land any more than this place was.

At that time I could have made locations in the Elk Hills if I had desired to do so as I was in a position to get money for such wells as I wanted to drill and I was also pretty well fixed myself.

I heard of the gas blow-out in the Elk Hills while I was at McKittrick during those years, but never went to see it as it meant nothing to me. I had experience in drilling near a gas blow-out in section 13 of Township 30-21 where I had got nothing except a water well.

Actual drilling in the Elk Hills started about three years ago. I was not in the country at that time but heard of the excitement. I have been over there since that time and went into the Elk Hills because I heard a report that the Associated Oil Company had found oil in section 30 of Township 30-24. There was no production being made when I visited the well. I have been in there since that time and recently bought an abandon- [1470] ed drilling outfit on section 4 of Township 31-24 where Reeves and Taylor drilled a well to a depth of 1750 feet. I know

the well was this deep because I pulled that amount of casing out of the well.

I am figuring on the purchase of a number of other abandoned rigs in the Elk Hills further to the north and west. I know these wells are being abandoned because I have talked with the owners with reference to taking out the rigs.

From my experience as an oil man I know the general opinion amongst practical oil men as to the utility of geological experts in connection with the oil business is that they are very useful. I think a whole lot of a geologist's opinion and have paid for some opinions in the past as they tell you where not to go. Of course they cannot tell you where to go to find oil commercially as that can only be determined by drilling. As to the certainty or probability of finding oil or finding the same oil sand at a distance from that, say half a mile or a mile, is a very hard question to answer. I am acquainted with geologists who make a specialty of giving the stratas through the Midway where it has worked out. In the Midway you may find oil at eighteen hundred feet and go a thousand or two thousand feet from there and then drill four thousand feet and not get oil to day.

CROSS EXAMINATION
OF
R. K. HOWK.

By Mr. Mills:

Q. You say you have been in the Elk Hills. Haven't you observed that that country is very much

broken at the surface—undulating—and has very little spots which even if you had water would be level enough to be found?

A. Towards the lake end and on the slope towards the north— [1471]

Q. Speaking of the general surface conditions?

A. The Elk Hills is nearly 18 miles long.

Q. Yes, I know. I have been all over it myself—probably as often as you have.

A. That land on the slope, on the north slope of the Elk Hills is pretty nice land.

Q. What sections?

A. 30-23.

Q. What sections?

A. I don't know. Right along on that range.

Q. You mean on the flat, on the north half of the section?

A. On that rolling land; yes sir.

Q. Do you mean on the hills themselves?

A. On the side hills? Yes sir.

Q. I am speaking of the Elk Hills as an uplift. Not the flats themselves.

A. There are a great many little valleys that if water was on them would be very good.

Q. Just name a section where it would be suitable for agriculture? Have you made any study of the soil of the Elk Hills?

A. No sir: No more than casually.

Q. Do you know as a matter of fact that it is very porous and that it wouldn't hold water even if it is put on it?

A. All our soils are so.

Q. Clay soils are not.

A. All of our Maricopa flat, if you drive over it, you will find places where the recently—

Q. Let us not get into an altercation. Be responsive specifically to my questions. Otherwise we will have a clash in a minute.

A. No, you won't. [1472]

Q. I am asking you whether you know as a matter of fact that the soil conditions in the Elk Hills are so porous that they won't hold water?

A. No; I don't know that.

Q. Have you made any study to ascertain that fact?

A. No sir.

Q. You never saw any growth there in the way of trees or other vegetation in the Elk Hills?

A. Sage brush only.

Q. Did you ever see a single sage brush in the Elk Hills?

A. On the slopes; yes sir.

Q. Where?

A. On the slope toward the valley, facing the Midway.

Q. Sage brush?

A. That is what we call sage brush.

Q. Where did you see the sage brush?

A. On the south flank of the hills.

Q. Not in the hills themselves, but on the flank on the south?

A. Yes sir.

Q. Recurring again to the splendid agricultural character of these hills, you say they would make good farming land if they had water?

A. I think it would produce if you had water on it; yes sir.

Q. Do you know of any spot in the entire Elk Hills except on Section 16, 30-23, that is level enough to get 40 acres in one piece?

A. I don't know what sections.

Q. Water won't stay on that hilly land at all, if it was put on it, would it? It is too hilly and broken?

A. It is very rolling. [1473]

Q. There is no spot that you would like to pick out for a nice farm?

A. You couldn't give it to me.

Q. Couldn't give it to you for agricultural purposes?

A. Oh, yes; if you had water there.

Q. If you had water and crops there you would take it?

A. Yes.

Q. But in its present condition would you take any of that land as a farm?

A. I am not in the farming business.

Q. If you were in the farming business?

A. That is a question.

Q. You don't want it to appear by your testimony that you think that that is good agricultural

land in its present condition, would you, to be perfectly fair?

A. Here is what I do say in answer to that; I don't know anything about agricultural land, and I don't look at it as oil land.

Q. I am not asking you about that. Read the question.

A. In its present condition I don't think it is agricultural land without water.

Q. And you don't know of any way of getting water there, do you, in sufficient quantities and sufficiently low cost to make it useful for farming purposes?

A. That is the trouble with the country.

Q. Just answer the question.

A. No.

Q. Therefore, your testimony is not to be taken as indicative of the high agricultural value of these lands?

A. You can get better lands for the same amount of money.

Q. It has absolutely no value in its present condition for agricultural purposes? [1474]

A. In its present condition, no sir.

Q. And you would not select it from its present condition for farming purposes?

A. No sir; I couldn't.

Q. Would you if you could?

A. There is too much good land in California.

Q. Would you in any event select it, whether

there is other land or not, in its present condition, and work it for a farm?

A. No; I don't incline that way to farming land; no sir.

Q. In other words, you don't believe it has any value as an agricultural proposition in its present condition, do you?

A. No sir.

Q. Now, you say you went into McKittrick, as I understand you, in 1901?

A. I was there in 1900 and went back in 1901 to stay.

Q. Where did you come from to McKittrick?

A. San Francisco.

Q. Had you been living in San Francisco for some time prior to that?

A. For some time.

Q. For how long?

A. I don't know. I had been mining in Shasta county.

Q. What kind of mining?

A. Quartz.

Q. For how long a time before you came to McKittrick?

A. Three years.

Q. Before that what were you doing?

A. I was in Guatemala.

Q. What were you doing there?

A. I was employed by the railroad.

Q. What railroad? [1475]

A. The Guatemala Central Railroad. I spent two years in traveling to get my health back before I went to mining.

Q. In Guatemala you were working for the railroad?

A. Yes sir.

Q. How long were you there?

A. Three years.

Q. Before that what were you doing?

A. I lived in Oakland and superintended the water-works there for three years—the Dingee system at that time.

Q. Prior to that what were you doing?

A. The hardware business in New York state.

Q. That leads you back to what year?

A. About 22 years ago, when I came to California.

Q. 22 years before you came to California?

A. 22 years ago I came out here.

Q. What year was it that you were in the hardware business in New York?

A. I was there for about three years with my relatives before I came out here.

Q. What time was it—what year was it?

A. I don't know. I could figure back. I have been here 22 years, and prior to that I was there 3 years in the hardware business.

Q. That would be about 1890?

A. 1888.

Q. To what year?

A. I came out here in 1888, I think. Maybe it is 24 years that I have been out here.

Q. Did you ever have any business relations, other than being an occasional passenger on their trains, with the Southern Pacific Company or the Southern Pacific Railroad while you were in California or elsewhere? [1476]

A. No sir.

Q. And your first experience in what you call the oil business was when you came to McKittrick?

A. Yes sir.

Q. About 1900 or 1901?

A. 1901, but I am not sure.

Q. You had just left what business?

A. Mining in Shasta county.

Q. Was that gold mining?

A. Yes sir.

Q. Now, you say that in 1901 or '2 you visited the Elk Hills?

A. Yes sir.

Q. How long after your arrival in McKittrick did you go out to the Elk Hills?

A. The first time—I don't know. I knew Mr. Blodget and he asked me to go out there and look at that property, and I met him and we drove out.

Q. That was in 1901, was it?

A. 1901, or '02; I am not sure.

Q. Right along there somewhere?

A. Yes sir.

Q. And you went out with him and you say you

never visited the Hills again till about three years ago?

A. After I went back to the McKittrick, very often—three or four or five times—I took a horse-back ride through the hills and came back through Buttonwillow.

Q. What were you doing horseback?

A. Looking at the land.

Q. For what purpose?

A. For the purpose of forming opinion whether it was worth while to raise money to start a well.
[1477]

Q. Water-well or oil-well?

A. Oil.

Q. Out in the Elk Hills?

A. Yes sir.

Q. At that time you hadn't had very much experience in the oil business except what you might have derived in running the water-works in Oakland or in the hardware business, or some of your previous occupations?

Mr. Lewers—I object to that sort of a question as frivolous.

A. I was drilling an oil-well when I made those trips. I was superintendent of an oil property.

Q. By Mr. Mills—What trips?

A. The trips to the Elk Hills.

Q. You became a superintendent in rapid order after you came there in 1901? You became a superintendent the same year?

A. I bought a piece of property.—

Q. What property were you superintendent of in 1901?

A. The property back of the Olig Crude, in Section 13.

Q. That was in 30-21?

A. Yes; I was part owner in the outfit.

Q. Your position as superintendent was derived largely from the fact that you were a large owner?

A. Yes sir.

Q. Not based on your previous geological observations?

A. No. We had to watch our pennies.

Q. You were out there to see that the money was not wasted?

A. Yes; we were all—nearly all the Californians at that time were beginning the game. We were all beginners in the game.

Q. At the time you went to the Elk Hills the first time you had not had a great deal of experience as a practical [1478] geologist?

A. No; I don't pretend—

Q. In fact, your knowledge was almost nil on the subject of general oil geology at the time you made your first reconnoissance in the hills?

A. I had looked over the Sunset property. That was the way I got acquainted with Mr. Blodget. And I had been out with Mr. Cooper—I had been out through the hills with him.

Q. But you had not very much knowledge of oil geology at that time?

A. No.

Q. As you look back on it now, with what you have learned since, you realize, do you not, that you knew very little about oil geology at that time?

A. Yes; I would make the same mistakes now. Everybody would if they didn't get the oil.

Q. You knew very little about oil geology at that time?

A. Yes. I had studied some of the—we had the bulletins. I don't remember the numbers. But I studied them pretty close to get that book knowledge.

Q. You have some book knowledge of geology?

A. I had a copy of the books in which we looked up the different localities as well as we could.

Q. In 1901?

A. Yes sir.

Q. Did those books or bulletins which you examined at that time tell you anything about the oil formations of the Elk Hills?

A. No sir.

Q. What do you mean?

A. In the McKittrick field there was a bulletin out, as I remember, treating on that asphalt deposit there. [1479]

Q. I am not interested in that, unless you want to volunteer it.

A. That is all I remember. I used that as a basis on these formations.

Q. You did find some excellent asphalt deposits around McKittrick?

A. One of the best.

Q. And you made \$15,000?

A. For our company.

Q. By tracing up and disposing of this asphalt mine which you say was 98 per cent pure?

A. Most of it 98 per cent; yes sir.

Q. Are you sufficient of a geologist at the present time to give me an opinion of the comparison of the formations in and about McKittrick, to the north and west of that, with the Midway field?

A. No.

Q. You do not feel competent to venture such an opinion?

A. No.

Q. But do you know as a matter of fact that the character of the structure about McKittrick is jammed up and broken up by the convulsions of that fold more so than at any other spot, so that it has caused more natural waste of petroleum which is now left in residuum beds of asphaltum? Do you know that to be a fact as a geologist?

A. Not as a geologist, but from observation it is rough like the north slope of—it looks to me just like the north slope of the Elk Hills. That is rough. Whether it is erosion or not, I don't know.

Q. Have you not been told or have you not

learned from your reading that the character of the formation around McKittrick has been jammed and broken up geologically so that it [1480] is impossible now to determine at what point in some places, to sink a well in order to find any oil?

A. That is the general opinion.

Q. You don't mean to say as a geologist, Mr. Howk, that the Elk Hills from the reconnoissance that you gave it is broken up in the same way that it is at McKittrick?

A. Not from a geologist's point, but from observation it is very rough and broken in there.

Q. It is a structural fold, is it not, on the Elk Hills?

A. I don't know what you would call it, but I know it is just as rough a country as you could possibly get. You can't go over it horseback, it is so rough.

Q. I thought you said it was good farming land?

A. I am saying that where 30 is, to the north of there, off in here, where the Associated well is, that is very rough country.

Q. That is not suitable for farming there?

A. I should hope not.

Q. Do you know from your geological reading and basing your answer upon your experience as superintendent of several oil companies in and about McKittrick, that the Elk Hills is really in fact a gentle uplift with slight angle of the same sands that outcrop along the line of contact at McKittrick?

A. I don't know.

Q. You don't know that?

A. No; I don't know that.

Q. You don't make any pretensions of knowing anything from geological observations as to whether the Elk Hills would make a favorable spot for the accumulation of petroleum or not, do you?

A. What do you mean? My opinion about going in there and drilling for oil commercially? [1481]

Q. No; I am asking you if you would consider that from a geological standpoint—do you feel yourself as a geologist able to pass on the question whether the Elk Hills are a favorable spot for the accumulation of oil or not?

A. No; I am not a geologist.

Q. Now, Mr. Howk, in 1901, you say you went out into the Elk Hills for the purpose of determining the question whether you should go in there and drill an oil-well?

A. Yes.

Q. Did you look for any physical evidences of the existence of petroleum underneath those hills at the time you went out there—any surface indications?

A. I was looking; yes.

Q. What did you look for?

A. For a sand cropping. That is about all.

Q. Do you mean an oil-sand cropping?

A. Yes sir.

Q. What else would you look for?

A. If I could see evidences of asphaltum, as we found in McKittrick, I would think well of it.

Q. Those would be, in your mind, indications of the presence of petroleum?

A. To a certain extent; yes.

Q. Was it your understanding from the somewhat brief information you had at that time that these sands which outcropped along the contact of the Temblor Range near McKittrick, and which you say were stained over with petroleum or gas, dipped off into the valley, and that somewhere in those sands you could sink a drill, and if you reached the sands they would contain petroleum which a drill would prove?

A. I didn't see any indications.

Q. Isn't that your general understanding of the geologi- [1482] cal structure, that these sands that dipped off in the valley were somewhat persistent and uniform, unless broken by some convulsion of nature?

A. Naturally so.

Q. And unless they were cut off by something underneath which you could not see on the surface, they would extend indefinitely where they were deposited by the sea originally?

A. Yes.

Q. And unless some convulsion of nature had interrupted the persistence and uniformity of that sand stratum, it would exist till it met the other range of mountains?

A. That would be the natural effect.

Q. And that was the general belief among oil men, was it not, up there?

A. Yes sir.

Q. So that there was really no arbitrary limit, if you could have tools which would go down to get the sands, and the money to pay for the string of tools and follow up, why you should not expect to find oil in it after you struck that sand?

A. The indications were not there as we had them in McKittrick, to start with.

Q. I am speaking now of the general belief that these sands dipped off into the valley from the flank of the hills there.

A. I don't know what the general belief was, but it did not impress me enough to go and spend the cost of drilling.

Q. Read the question again. (The reporter reads the question.)

A. The general belief is that they dipped to the valley.

Q. And also, it was the general belief, was it not, that these sands had been laid down by the sea when the sea first covered that land—in a uniform and general disposition all [1483] over that valley?

A. Yes sir.

Q. And that these stratifications where they existed, there was nothing, unless there was some convulsion of nature to interrupt their course, to prevent their persistence indefinitely as far as the sea went?

A. Yes. But let me add this: We had tried by going out on the dip of the sands and failed to find it.

Q. We will come to that.

A. Won't that answer the same question.

Q. But that was the general belief, that the sands were laid down by deposition of the sea?

A. Yes.

Q. And if oil came into those sands, there was nothing to prevent its migration throughout its entire course?

A. Nothing whatever.

Q. Now, unless that stratification of sand in which the oil was found to accumulate had been interrupted by a shelving or by some intrusion of some kind, you would expect to find that as far as the sand went, wouldn't you?

A. After once finding it?

Q. Yes.

A. Yes sir.

Q. So that there was no arbitrary limit whereby a man could say, "If you go out there three miles, you won't find oil", was there?

A. There is today, but there was not then.

Q. At that time, the belief was that it extended out, but today you say it is different? Am I correct about that?

A. Yes.

Q. As a matter of fact, is it not true that from the time you first went into the McKittrick, where you say there was [1484] evidence of considerable

jamming up of the structural formation,—from there for twenty miles down the Sunset along the eastern flank of that main range where you say the oil-wells were originally on the flanks of the mountains, that since that time they have developed gradually by going out into the valley, into the flat, and in numerous instances they have found oil?

A. Yes sir.

Q. So, they have, in part, corroborated the theory which men entertained at the time you went to the McKittrick?

A. Yes.

Q. And it even has extended, as you say, to the Buena Vista Hills?

A. Yes sir.

Q. And there the same theory has been corroborated by certain parties sinking wells to a certain depth and discovering oil? Am I correct?

A. Not all of them.

Q. Some of them have?

A. Yes. But I want to add to that question. I can show the paper and I want him to corroborate it—to answer that question of yours. You are asking a very hard question.

Mr. Lewers—You have a right to explain your answer.

A. I want to explain that. Not by the theory, but the way it has worked out. He will corroborate it by what he has seen in the field. That geologist. It

is a hard question you are giving me. It is a damned hard question.

Q. By Mr. Mills—I am assuming all the time that you know more about the oil business than I do. If you don't, you don't know very much about it.

A. We know today that it is not theory. We started to spend money on the theoretical proposition. Let me have a piece of paper and I will draw the lines as I can. [1485]

Q. By Mr. Lewers—How will you get it in the record?

A. I don't want it in the record.

Q. I want it in the record. Explain what you mean so it will go in the record.

A. Here is our production today. Here is the Buena Vista Hills (marking on a slip of paper). Here is our strike of oil, coming out here. Assume that this is the valley. Here is our production of oil. The supposition is that this is an erosion of the same sands. Why is it on that same sand at certain points we get water-wells instead of oil-wells?

Q. By Mr. Mills—That is true. You will find that in what they call the synclines. The water being heavier than the oil it will sink and force the oil up in the domes of the hills. That is my explanation of it. When you find water here which is heavier than oil it will drive down into the lowest parts. It will have a tendency to force the oil up into the domes. Will that answer your question?

A. Yes. But a little more. On 25 Hill today we

have water—a great deal of water—between that point and this are oil-wells. Why is the water there? Why is the water there and not in between? These are the shallow wells. Here are the deep ones. The shallow wells have the water the same as the wells out here. Can you answer me?

Mr. Martin—Certainly; but I am not on the stand.

A. That is your business. But it is rather puzzling to me. That cost us money, Mr. Mills, to find it out. It is not theory.

Q. By Mr. Mills—In 1901 Mr. Blodget had you go out there to look over the Elk Hills as a possible or prospective oil territory?

A. Mr. Blodget knew I had some money for the business.

Q. And Mr. Blodget was at that time recognized as a man extensively interested in oil developments in the West side fields? [1486]

A. I think a great deal of his opinion.

Q. He entertained the opinion at that time that the oil-sand must extend out to the Elk Hills, at the time he asked you to go out there?

A. But he didn't put any money in it.

Q. I am not asking that. But did he entertain that opinion?

A. He thought there was a possible chance. It was deep land.

Q. He thought it was a possible chance? He thought sufficiently of it to interest you and others

in the undertaking of developing that field, did he not?

A. Well, it cost him no money to do that, and he was finding out something.

Q. How do you know it cost him no money when he has testified into the record that it has cost him money?

Mr. Lewers—The record don't show that it cost any more than to put up a few records and cabins.

Q. By Mr. Mills—At that time there was a few men that thought the Elk Hills was a favorable spot for the accumulation of petroleum?

A. The only men that tried to talk to me that it was a favorable spot were the men who had already locations. Men like myself who could have gone in and had the money to go didn't think well of it.

Q. You were interested in the flank?

A. Yes, but I was looking for more.

Q. You thought at that time, and quite reasonably too, as a novice in the business, that it was more favorable to drill an oil-well near a mal-producing well than to go out several miles distant into a new territory? You felt that your capital would be safer as an investment—

A. Yes sir. [1487]

Q. —To be perfectly frank about it?

A. Yes sir.

Q. And a great many people who were timid about the investment of capital, and who had little knowledge of the geological structure of the Elk Hills

and Buena Vista Hills, clung along the hillside? Is that true?

A. That is true.

Q. Did you have some confidence in the opinion of Mr. Youle that you spoke of?

A. At that time, yes; a great deal.

Q. He was a man who had been largely in the oil business for a number of years?

A. He had made much of the production.

Q. He was really the pioneer in that field?

A. As a manager; yes. He and McWhorter.

Q. Mr. Youle testified at page 1022 of the record: "Q—You have examined the formation pretty closely along the line of contact of the Temblor Range at Sunset and northwest as far as McKittrick, during the time that you were engaged there by Jewett & Blodget, the P. I. Company and others. By comparison, what is the characteristic formation of the Elk Hills?"—he was testifying as an expert oil man of fifty-one years' experience in the oil business—"A—Why, the Elk Hills, always, to me—There was an intuitiveness there that I always felt like getting away from the broken conditions I found on the edge of the formation. And the Elk Hills looked good to me all right. But that is as far as you could give any geology on it. It looked good from every standpoint; but there was no evidence of any uplift before you reached the Elk Hills; therefore the same formation that existed and was cropping out on the McKittrick side, if it was uplifting at the Elk Hills, must be uni-

form, must be the same; and, as long as that didn't uplift and expose [1488] itself and spill over and make asphalt was evidence that you would get bigger, more prolific wells than you would where the asphalt was, because of the fact that it was not broken. The biggest wells in the world are where there is the least asphalt." Do you agree with him in his statement of facts?

A. Is that recent evidence of his?

Q. That is testified to in the month of May, 1912, in this case.

A. Could he have spoken in that way without the development as you have asked of me ten years ago?

Q. He was speaking of it as of prior to December, 1904.

A. He couldn't have said that ten years ago.

Q. He is stating now that that is what he believed before 1904. I ask you if you agree with him in that statement as a geological proposition.

A. As to the development, as it goes? You have got to agree with it today, because it is borne out by the wells. But you asked my opinion of ten years ago.

Q. He is responding now to a question of his opinion as of more than ten years ago.

A. He was there then?

Q. Yes; and he had locations in the Elk Hills. He goes on further: "Q—Then, as a result of that, did you regard the Elk Hills as more or less valuable as an oil territory than that right around McKittrick?

A—Well, as to value, it didn't have any, more than a mine has until after you get it, and after you get it it is too late to buy it for \$150 an acre. In my estimation as an oil man, it had a value—in other words I would be looking for a thousand or two thousand dollar an acre land. I would not be looking for anything else. It wouldn't be worth \$5 an acre, or one, if you didn't get it. That is the way I look at it.

Q—Well, as a possibility, then, for oil, what did [1489] you regard it? A—I would regard it as one of the best locations, without a question. No reason on earth. And that was from parallels over here I had just left in Puente. Without a question it would be one of the best locations in there.” Do you agree with his estimation of the Elk Hills as a favorable spot for the accumulation of petroleum?

A. I do not.

Q. And your opinion is not based on any great degree of geological or oil geological information?

A. I think, Mr. Mills, if you had \$50,000 to put in the oil business and say to me to go there, if I knew you or not I would say, “Mr. Mills, burn your money.” That is the way I feel. I may be wrong.

Q. You know from what you have heard, if not from personal knowledge, that the oil development so far in the Elk Hills is that of a deep territory,—upwards of 3000 feet?

A. Answer me this.

Q. Answer my question.

A. It is deep; yes.

Q. And you know that it requires a great deal more money to go into the exploitation of an oil property known to be deep, than it does in a shallow property?

A. Naturally.

Q. A deep territory is a place for a poor man to keep out of?

A. Yes sir.

Q. A deep territory, if you know anything about the oil game, you know it to be a fact that a deep territory is a place for a man with plenty of money to risk?

A. That is true. Let me ask you this: In these oil wells where they have the oil in the Elk Hills, have they the sand?

Q. Let me ask you another question. [1490]

Mr. Lewers—Mr. Howk, he can't answer the question.

A. Excuse me then.

Q. By Mr. Mills—Do you know that the Elk Hills, in 30, 30-24—that there was produced a well in which there was upwards of 700 feet of perforation of the casing, and in which when it was put on the gauge for two days ran at the rate of of 406 barrels of petroleum a day?

A. For one day?

Q. For two days?

A. 800 barrels for two days?

Q. Yes. Do you know that to be a fact?

A. I do not.

Q. Would that fact make any difference to you or modify your opinion of the territory if you knew it to be a fact?

A. If I would go there and see a hundred barrels a day for twenty days—

Q. I am not asking that. Will you answer my question? Do you know as a matter of fact—

Mr. Lewers—Will you let him answer your question?

A. You want my opinion if I saw a well produce for 24 hours or 48 hours at the rate of 400 barrels for 24 hours if I would call that oil territory?

Q. By Mr. Mills—No. Would you consider it a good well?

A. Absolutely, a good showing.

Q. Assuming that the well was buggered and held down, in order to conceal its true capacity, until it ceased altogether to flow, and you knew it to be a fact that it had been deliberately plugged or stopped from flowing, but that notwithstanding that it would break loose, would that modify your opinion of the territory in any way?

A. How would I have the proof?

Q. I am not asking you that. If it was a fact and shown [1491] to you, would it modify your opinion?

Mr. Lewers—To which I object on the ground that it is a hypothetical question not based on any evidence, and counsel knows no evidence can be produced in support of it, and it is misconduct and improper for counsel to bring it in on cross-examination.

Mr. Mills—Don't be sure about your grounds as to what I can show.

Q. What is your answer?

A. Absolute proof by a man that knew his business, I would say that it was a very good indication for an oil well.

Q. If that was shown to be a fact, you would regard the land in the immediate vicinity of that well as excellent oil land, would you not?

A. A 400-barrel territory is good oil land.

Q. Now, referring to the same wells near McKittrick which you say were abandoned or did not produce oil, will you please take the first well that you mentioned? What section was that on?

A. The first one was the Lucille which went out over the hills on the slope, of the extension, in front of McKittrick.

Q. Do you remember the section?

A. It must be Section 8.

Q. In 30-21?

A. 30-22—no, that was Section 10.

Q. In 30-22?

A. Yes sir; I think that is where the Lucille was. In those early days we had no way of knowing—this wasn't surveyed when I was in there—we had no way of knowing the sections. It must have been there. You can get a log of that well from Dallas at Coalinga. He is secretary of the Producer, isn't he? Who knows Dallas? Some of you ought to know

him. He was the [1492] Lucille man. R. W. Dallas, I think is his name.

Q. Did you mention a well in Section 1 of Township 30-21?

A. No sir.

Q. Did you mention a well in Section 12, Township 30-21, in your direct testimony?

A. Yes; McKittrick Oil Company.

Q. What did you say about that well? Was that one that you say was abandoned?

A. Yes.

Q. Do you know of a well immediately north of that in Section 1 of the same township and operated by the McKittrick Oil Company or drilled by the McKittrick Oil Company?

A. No; they had a well on the crest of that hill. I could point out that well to you there.

Q. Did you mention a well in Section 6 of 30-22?

A. Yes sir; the Sea Breeze.

Q. Isn't it a fact, Mr. Howk, that on Section 1 in Section 12, of Township 30-21, and in Section 6 of Township 30-22, there were successful and producing wells drilled by the McKittrick Oil Company and by the Nacarimo Oil Company and by the U. S. Oil Company, and that the U. S. Oil Company at the present time is selling oil from those wells?

A. They have thick oil there.

Q. And that is right where you say the wells were abandoned?

A. The Sea Breeze on the extreme south end of 6,—the Sea Breeze abandoned that well.

Q. Don't you know on Section 6 they are selling oil now from a producing well, or do you know it?

A. I know that the Nacarimo have oil there.

Q. Do you know that they are selling oil?

A. No; I don't know that.

Q. Are you willing to testify under oath that they are not [1493] selling oil from that well?

A. I have not been there; I don't know.

Mr. Lewers—There is no need of getting that manner of addressing a witness. I protest that it is unfair to him—

Mr. Mills—I know it is not necessary for you to teach me how to examine the witness.

Mr. Lewers— —to examine a witness in that way.

Mr. Mills—I don't think Mr. Hawk is taking any offense at my manner?

A. No; I consider that you are very much interested.

Q. Mr. Hawk does not need your protection. He is well able to take care of himself.

A. I know that the oil is very heavy in there.

Q. The McKittrick Oil Company had a contest with the Southern Pacific Railroad on Section 1 in 30-21, didn't they?

A. I don't know.

Q. At a time when the railroad company endeavored to get the land in that section. It was an odd-numbered section. They were trying to get it under

the railroad grant conveying agricultural land. And the McKittrick Oil Company wanted it for oil purposes. Do you know anything about that contest?

A. No sir; I don't know anything about it.

Q. I believe you referred in part of your testimony to a Standard well in Section 12, 32-23. Am I correct?

A. They have taken their rigs away from the center of the section.

Q. Don't you know, as a matter of fact, that the Standard Oil Company has on the northeast corner of that section in Township 32-23, one of the best wells in the field?

A. Yes.

Q. You don't want it to appear that because they took some casing out of one well in that section, that your testimony shall [1494] condemn that section as an oil proposition, when they have one of the best wells in the field there?

A. That is a little over a quarter of a mile, isn't it?

Q. Yes.

A. Then there is that sand again, as you say, continues going up, and shows that it goes up there.

Q. Do you want to condemn that section because they abandoned one well?

A. I condemn no section at all.

Q. As a matter of fact, has it been your experience that in an oil field where you say the true test is the drill, that a drill which goes 1700 feet proves

anything as to the territory beneath that drill at 1800 feet?

A. It is all owing to the formation. That would take a chemist.

Q. You mean a geologist?

A. A chemist.

Q. Then you would have to get an expert chemist after the drill stopped at 1700 feet, to see if there was oil at 1800 feet?

A. If it was on the same formation, it ought to show some little indication that might be below there.

Q. When you stop a rig at an arbitrary 1700 feet, do you go and get a chemist to see if there is oil at 1800 feet?

A. No; they don't generally do it.

Q. Do you think they might do it?

A. That is a question. That is another hard question.

Q. Assuming that the drill has stopped at the 1700 foot level and the tools blew out, you say now, as I understand you, that with the use of a chemist he could tell whether if that drill had gone a hundred feet further he might have struck oil?

A. No; I don't say that he could tell. There might be an [1495] indication of gas below that, 50 or 20 feet or 10. And there might be a clay formation which would shut everything off.

Q. Does the drill in your opinion as an oil man, prove anything lower than the place where it stops,

as to whether the land below that contains petroleum or not?

A. Absolutely no.

Q. Chemist or no chemist?

A. Chemist or no chemist.

Q. As a matter of fact, in each one of these wells in which you say the company pulled their casing and abandoned the well, if the drill had gone further it might have struck oil?

A. Yes.

Q. So all it proves, according to your idea as an oil man, is that at that particular spot for the distance at which the drill stopped there was no oil?

A. That is all.

REDIRECT EXAMINATION OF

R. K. HOWK

By Mr. Lowers—

Q. In your experience have you found that there was a gentle undulating blanket of oil sand lying under all of any given territory as developed by wells?

A. Uniform, you say?

Q. Yes.

A. No; it has proven different by the drill today. As I explained earlier to Mr. Mills, on these anticlines, going on either side, you go to a depth that shows in our flat country, that, as you say, the oil would follow out.

Q. Is it not a fact that in many cases where ac-

ording to the estimates, the oil-sand ought to be struck at a particular depth, judged by other wells, that the drilling at other places [1496] has not even shown sand, let alone oil?

A. There are cases, yes. They are still in the shale in some of them that they have abandoned. Mr. Crandall has two or three experiences that way. The Golden Gate has that experience and they are not far from producing wells. Still further on the Honolulu people got the oil.

Q. Then if the assumption made by Mr. Mills that the sand is deposited uniformly over the bed of that entire sea as it originally existed, is not correct; and if the proper assumption is that the sand containing oil would be found near the shore lines, you would expect if you got out from the shore lines into the fine sand too fine a sand for oil? Is that correct?

A. In what way? I want to get that.

Q. Mr. Mills has made the assumption as a geological fact that sand was deposited uniformly over the entire bed of the San Joaquin Valley from mountain to mountain by the original inland sea. Suppose, instead of that being the fact, that the coarse sand which carries the oil was deposited only near the shore lines by the ordinary processes of erosion and sand deposits. Isn't it a fact that as you went out further you would get finer and finer sand and finally it would be a fine silt or mud and not have any oil at all?

A. It would seem that way.

Q. In 1904 would you agree, from what you knew of the entire situation in that country, with Mr. Youle's statement that the Elk Hills were the best oil proposition around there?

A. I wouldn't agree with him. I couldn't.

Q. Do you know anybody that considered that at that time?

A. I do not.

Q. Did Mr. Youle endeavor to do any work out there to your knowledge?

A. Not to my knowledge. [1497]

Q. Did he ever tell you in all your conversation with him that he considered the Elk Hills the best oil country around there?

A. No; I don't think we ever spoke of it. Not to my recollection.

Q. Did Mr. Blodget, when he was endeavoring to interest you in the Elk Hills, say anything about Mr. Youle thinking that was a fine oil country?

A. Not that I know of; not that I can recollect.

Q. Basing your answer upon your entire experience in that field and upon everything that you have observed, not only in connection with the Elk Hills but in connection with the surrounding territory on the West Side that you are familiar with—would you today be willing to spend any money in the Elk Hills for an oil well?

Mr. Mills—Objected to as not only immaterial, but the witness has not qualified himself sufficiently in

oil geology to pass on the question with any degree of safety to himself or his friends.

A. I couldn't go there and drill for oil, no, knowing what failures have been made now.

Q. By Mr. Lewers—Is that known oil territory today in any commercial sense?

A. Not that I ever saw. And I have been to those wells. Not commercially.

Q. Is the discovery of oil in a well equivalent to making money out of that well?

A. Oh, no.

Q. What proportion of the wells, in which oil is discovered pay?

A. That is a hard question.

Q. Approximately. I know you cannot give it accurately. [1498]

A. That is a very hard question. That date I have not followed up. There is a man who could tell better than I.

Q. Referring to Mr. Martin?

A. Yes. That is his business.

Q. But he won't.

A. If he asked me what a piece of pipe was worth, I could tell him. But that is a very hard question. Depth governs one part of it. Quantity at that depth governs another. And the cost in that locality. That is the only way I can answer that question.

Q. By Mr. Mills—And the price of oil and so forth?

A. Yes sir. That is a very difficult question. Un-

less you go to the actual data it is a very difficult question.

Q. By Mr. Lewers—Did I understand you to say in answer to Mr. Mills that your observation had shown out there in the Midway field that at one place you would have deep wells producing oil and a short distance from there shallow wells in which the water came in?

A. On 25 Hill we have water. Then we go down and we have the wells of the Standard 30 off towards Maricopa, and then we get down into water.

Q. In the middle of the valley?

A. Where it runs off 25 Hill into 35 Hill anticlinal in an easterly direction.

Q. So far as the occurrence of oil is concerned, could you term that field spotted?

Mr. Mills—Objected to as extremely leading and suggestive.

A. It is spotted as to where you get the oil, on account of the so-called dip of this formation where they find the oil.

Q. By Mr. Lewers—Do you know any oil field that is not spotted, so far as the occurrence of oil is concerned?

A. No; I do not. The Kern River comes the nearest to being [1499] in that class of not being spotted, because it is a sort of a blanket—of uniform depth, I mean.

RECROSS EXAMINATION
OF
R. K. HOWK

By Mr. Mills:

Q. What do you mean by "spotted"? Do you understand what the term is?

A. Holes that don't produce commercially.

Q. Then you mean where the persistence and uniformity of the oil-sand is interrupted by some intrusion underneath the surface, and a well is sunk where that intrusion occurs? That is what you mean by "spotted"—where it would come in a dry hole?

A. The Midway field is so large—that strike along where the production first came and they have been developing out—the only way to answer that in this dipping from this one side of the valley to the other, there may be a place where you would get it at 2000 and in another place you wouldn't get it at 6000.

Q. You don't mean that anybody went 6000 feet, do you?

A. No; I do not.

Q. You are using those as arbitrary terms?

A. Yes; that is all. It would make it spotted as to getting your oil, because in one place you get it and in another it would be too deep for you.

Q. If you got water in place of oil—in a syncline—would you call that a spot in your definition of spots?

A. No.

Q. What would that be? A mere speckle?

A. A mere speckle.

Q. As a matter of fact, you never heard the word spotted [1500] used in that connection?

A. No. In other words, a great many wells don't produce at all. It might be they are, as you say, buggered.

Q. That is, some mask as to the true character of what the well produced?

A. Yes.

BENJAMIN M. HOWE, called on behalf of the defendants, having been first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

By Mr. Lewers:

Q. Your home is in Los Angeles, is it, Mr. Howe?

A. Yes.

Q. Where is your office in Los Angeles?

A. 401 Union Oil.

Q. Are you connected at the present time with any oil companies?

A. Yes sir; several.

Q. Will you state which companies they are?

A. The Sqaw Flat Oil Company, operating in Ventura county; Pan-American Oil Company and Pencland Union Petroleum Company operating in Maricopa.

Q. What connection did you have with those companies? In what official way, if any?

A. Secretary and manager.

Q. Are any of those companies actually producing oil at the present time?

A. We have a small production in Ventura county, and we are ready to bring in wells in Maricopa.

Q. How long have you been engaged in the oil business, [1501] Mr. Howe?

A. About eighteen years.

Q. And where?

A. California altogether.

Q. And what fields?

A. I worked in Los Angeles, Kern River, in the West Side fields and in several counties along the coast, wild-catting.

Q. You have referred to working in several counties wild-catting. Do you mean by that prospecting for new fields?

A. Yes sir.

Q. Have you had any experience in connection with the actual operation of drilling?

A. Yes sir; I have worked in all branches of the business.

Q. And when did you first begin working in the actual drilling work?

A. About 1898.

Q. 1898? And where was that?

A. Drilling for water-wells at San Bernardino. I dressed tools previous to that.

Q. When did you have your first experience in

the actual drilling for oil, as distinguished from water?

A. Your first experience is when you are dressing tools, in the Los Angeles field. You very often work in the driller's place in that capacity.

When did you first go to the West Side field?

A. I went to the Kern River fields in December, '99; and then I went in the spring of 1900 over to San Luis Obispo County and returned to the Kern River field in October, 1900, and worked there until March, 1901, and then went out to the West Side field on Section 24.

Q. In what township?

A. 32-23. [1502]

Q. How long did you work there?

A. I stayed there until the latter part of May.

Q. Of that year?

A. Yes sir.

Q. And when did you return to that country?

A. I returned in March, 1908, to the Sunset field again.

Q. During that first period when you were in there in 1901 were you at McKittrick at any time?

A. Yes sir.

Q. Will you state generally over what portion of that country you went?

A. Well, I went out there in March, 1901—I had charge of the Kern Crude Oil Company, they call it, I believe. Captain Lucy was manager at that time. I had charge of the work and running one tour. I

had my own team there and while we were off tour I was over a good deal of country over at McKittrick and the Buena Vista Hills and the Elk Hills, looking to see if we could find land that looked favorable for oil purposes, to make some locations.

Q. As the result of those trips did you make any locations?

A. I made no locations in the Elk Hills. I saw nothing there that would lead me to infer that it was worth while to go in there.

Q. At that time was there anything going on in the Elk Hills?

A. No sir.

Q. Were there any locations in there that you observed?

A. There were locations made in there at that time, but on what sections I would not be in a position to state now.

Q. What work was being done at that time on any of those locations?

A. About all the work that was done that I could see was [1503] the posting of the location notices.

Q. Now, what was the effect of the discovery of oil in Kern River field on the location of ground in that county?

Mr. Mills—That is objected to as immaterial.

A. Simply to stimulate the people into the idea, after seeing the rapid development in the Kern River field, that the possibilities of the oil business were great, and, like all districts, they would locate the

country for miles and miles around on the chance that it might develop later into oil.

Q. And what sort of persons went in on these locations?

A. Most any one that could get in. It was not confined alone to oil men, but a lot of the business men and clerks and people around Bakersfield would go out and file locations—people that knew nothing about the oil business would go out there and take a chance.

Q. At the time when you entered in 1901 where was the actual oil production at McKittrick, generally?

A. Right close to the town there, back in that little narrow strip south and west. The Shamrock well was there, I think, and there were two or three companies operating there by Laymance. I don't know whether E. J. Miley was connected with the oil companies operating in there back of the town or not. They were drilling in there.

Q. And what was the condition, so far as development was concerned, down toward the Midway at that time from McKittrick?

A. There was very little development between what was known as Taft now and McKittrick. There were a few rigs scattered in there, but the one producing well was on Section 22, the old Bay City.

Q. In what township?

A. That would be 32-23. That would be two miles west of where I was. [1504]

Q. And what was the general impression, if you know, amongst oil men as to where the oil was at that time?

A. It seemed to be the general opinion that it was confined to the hills on the west side of the district there.

Q. You mean by the hills, the Temblor Range?

A. Yes.

Q. Were the Elk Hills at that time considered by oil men in that vicinity as being oil land?

A. I never heard any one state that it was considered to be oil land.

Q. Were you in touch with oil men in that vicinity while you were there?

A. Yes sir.

Q. When was it, if you know, Mr. Howe, that the attention of actual developers was directed toward the Elk Hills?

A. Not until about 1910. That was stimulated from the discovery of the oil—

Mr. Mills—Just a moment, Mr. Howe. I object to the witness volunteering anything not responsive to the question.

Q. Mr. Lewers—I will ask you, by what was that stimulated?

A. By the discovery of oil in the Buena Vista Hills.

Q. On what properties?

A. On Section 10. I think it is by the Honolulu people.

Q. What effect did that discovery have on the Elk Hills?

A. It caused a good many locations to go into the Elk Hills district, from the fact that the Buena Vista Hills were covered by locations being held by the Honolulu people, and that there was no available territory there, and the only open territory was to the north through that flat between the Buena Vista and the Elk Hills, and in the Elk Hills.

Q. And what companies went in there that you know of, into the Elk Hills? [1505]

A. The Hale & Heffner. Their locations were on the south side of the hill. The Hart Crude Oil Company was in there.

Q. Who else?

A. I don't know all the locators through there. They had the Barnadon Oil Company that had a series of sections in the Elk Hills, and the Associated was there.

Q. The Associated Oil Company?

A. Yes.

Q. Was there a company called the Scottish Oil Company?

A. There was quite a lot of oil companies in there. I kept no track of all the oil companies that were operating in there.

Q. When were you last in there?

A. It would be about a year and a half ago.

Q. You have not then examined the territory recently?

A. No sir.

Q. In your opinion, is the Elk Hills oil territory?

Mr. Mills—I object to that question for the reason that the witness has not yet qualified himself as competent to pass an opinion upon the Elk Hills territory.

A. I wouldn't call it oil territory.

Q. By Mr. Lewers—Do you remember the names of any of the early locaters in the Elk Hills? Particularly, do you remember a man by the name of Bartlett?

A. Yes; I remember there was a Bartlett that had a quarter-section of land in there on contract with the locaters.

Q. When was it that Bartlett was in there?

A. That would be in 1901.

Q. Where did Bartlett come from?

A. He came from Boston originally, I think.

Q. What did he do in there?

A. He promoted several oil companies in and around the Sunset field. He acquired, I think, a 40 or 60-acre lease in [1506] the Sunset district. He partitioned it off into small holdings and organized several oil companies. His method to increase his acreage would be to acquire outside land. One company, I know, particularly, had a quarter-section of land—

Mr. Mills—I again object to the witness volunteering any statement not responsive specifically to the question asked.

Mr. Lewers—This is responsive. You may proceed.

A. —to increase the acreage of the companies which he organized. In one of the companies he had a quarter-section of land in the Elk Hills. What section it was, I do not now remember.

Q. Did he have any oil on any of the land down near Sunset?

A. Yes sir.

Q. You mean he had the oil down there and the land up in the Elk Hills, and sold stock on that?

A. Yes sir.

Q. Did he invest any money in development in the Elk Hills?

A. He had no investment at the time.

Q. How was your attention directed to that matter?

A. It was called to my attention through my wife's uncle who was a resident back in Massachusetts, whom Mr. Bartlett was seeking to have invest.

Mr. Mills—I object to that as wholly irrelevant and immaterial.

Mr. Lewers—You may remember Mr. Bartlett was referred to by Mr. Blodget as one of the men that went in there.

Mr. Mills—I don't doubt that at all, but it is wholly irrelevant about the witness' relative back in Massachusetts.

Q. By Mr. Lewers—Now, Mr. Howe, basing your answer upon your experience in the oil business and

in the oil fields, what, in your opinion, is the practical utility of geological experts in determining the existence of oil in undeveloped territory? [1507]

Mr. Mills—Objected to for the reason that the witness has not shown himself qualified in any way to pass any such opinion.

A. Well, the people that make a study of formation have to base their opinions, of course, wholly and exclusively, on the surface indications. Very often they are badly fooled in their deductions. They can see no further into the ground than anybody else.

Q. By Mr. Lewers—How can you determine whether there is oil in the ground?

A. By actually drilling a well reaching the formation which the expert tells you is the oil formation, it will prove whether there is oil down in the sand or whether the sand exists at that point or not.

Q. And in your opinion can that be determined in any other way than by the drill?

Mr. Mills—Objected to because the witness is manifestly incompetent to judge, from the evidence he has already given, as to whether it can be determined in any other way or not.

A. Deductions can be made from the surface indications that the formation extends and is in place, but that is not necessarily proven to be the case.

Q. By Mr. Lewers—Have you had any experience in testing out the predictions of geological experts?

A. I have been out on several wells which were located and drilled on the strength of experts examining the ground.

Q. What experts do you refer to?

A. Mr. Arnold.

Q. Mr. Ralph Arnold?

A. Ralph Arnold.

Q. Any one else?

A. Mr. King. I think the name was.

Q. What is his first name? [1508]

A. I think it is J. N. I am not sure.

Q. Where was it that you had this experience in connection with the prediction made by Mr. Arnold?

Mr. Mills—Let me interpose an objection to the immateriality and irrelevancy of that question.

A. The Vallecitos district.

Q. By Mr. Lewers—Where is that?

A. San Benito county.

Q. Did you find any oil?

A. No sir.

Q. And was the position of those wells indicated by the advice given by Mr. Arnold?

A. One of the wells drilled in that locality was.

Q. And was the depth indicated by Mr. Arnold at which oil would probably be found?

Mr. Mills—Objected to as extremely suggestive and leading.

A. Yes sir.

Q. By Mr. Lewers—And was oil found at that depth?

A. No sir.

Q. Was any oil-sand found at that depth, if you know?

A. No.

Q. Were you in any part of the West Side country, in 1904, Mr. Howe?

A. I was there in the fall of 1904, I think, for a few days—at McKittrick.

Q. And at that time were you over in the Elk Hills at all?

A. On the western edge of them.

Q. For what purpose did you go over there on that occasion?

A. I went down to look at some land that Mr. Shepherd owned or was leasing.

Q. Do you know his initials?

A. A. D. Shepherd. [1509]

Q. By Mr. Lewers—Where was this land that Mr. Shepherd had under lease?

A. South and east of what is known as the 1901 Oil Company.

Q. Then it wouldn't be in the Elk Hills?

A. It would be right on the edge of the Elk Hills; just about on the western edge, if I remember.

Q. Will you give that section?

A. It was east of what was called the 1901 Oil Company, if I remember correctly, the name of the company. I can't recall the section.

Q. Did you make any examination of that land?

A. Yes sir; I was out there two days looking at it.

Q. For what purpose were you examining it?

A. To see whether I considered it was practical for Mr. Shepherd to hold that for future developments for oil.

Q. And what conclusion did you come to?

Mr. Mills—I object to that on the ground that the witness has not yet shown himself qualified to pass an opinion upon oil land.

A. I advised him not to drill; that I had obtained the data of the drilling in the vicinity, and it didn't look like a favorable proposition.

Q. By Mr. Lewers—Did you hear the Elk Hills discussed as being oil land at that time?

A. No sir.

CROSS EXAMINATION
OF
BENJAMIN M. HOWE.

By Mr. Mills:

Q. You say that in 1898 you were drilling water-wells over in San Bernardino county. At what depth is water found in San Bernardino county where you were drilling? [1510]

A. Surface water was about 60 feet. We encountered several stratas at various depths up to 600 feet.

Q. How deep did you drill there? What was the deepest well in San Bernardino county that you drilled?

A. About 600 feet.

Q. What form of rig?

A. We used a Star rig.

Q. Will you describe what the process was that was used with that sort of a rig in drilling a water-well?

Mr. Lewers—Objected to as not cross-examination and not relevant to anything in this case.

A. The Star rig is a light portable rig on the same principle as the Standard rig, with a cable system and walking-beam and the same tools, only lighter.

Q. In your experience as a driller and tool-dresser, what sort of rigs were you working on most of the time?

A. Standard rigs—oil rigs.

Q. Entirely so?

A. Yes sir.

Q. You are not a devotee of the rotary rig?

A. I have drilled wells with the rotary rigs also.

Q. In the oil field?

A. Yes sir.

Q. I understood you to say that you did all of your drilling with a Standard rig. Am I mistaken about that?

A. No; I have drilled two or three wells with a rotary rig.

Q. Whereabouts did you drill with a rotary?

A. On the wild-cat well in San Benito county, and at Hollister. I drilled several wells around Oak-

land during the summer of the earthquake, in 1906.

Q. Did you ever use a rotary rig in the West Side field at any time? [1511]

A. Yes sir.

Q. Whereabouts?

A. On Section 4.

Q. There are a great many Sections 4. In what township?

A. Section 4, 11-23.

Q. Down in Sunset?

A. Yes sir.

Q. What was your business prior to the year of the earthquake when you were drilling wells at Oakland?

A. I was drilling wild-cat wells in Santa Clara county.

Q. Have you at any time been connected with the Southern Pacific Railroad Company?

A. No sir; only as a passenger on the trains.

Q. Or with the defendant Southern Pacific Company?

A. No sir.

Q. Have you had any business relations with the Kern Trading & Oil Company?

A. No sir.

Q. Or the Associated Oil Company?

A. No sir.

Q. Or the Pacific Improvement Company?

A. The only time I had any connection with the Pacific Improvement Company is when I went down there for Mr. Shepherd.

Q. Was Mr. Shepherd connected with the Pacific Improvement Company?

A. I think he was the manager at that time.

Q. How long were you employed by Mr. Shepherd?

A. Just simply to go down and make that report.

Q. Now, you say you came from the Kern River field after you returned from San Luis Obispo, to the West Side field, in March, 1901?

A. Yes sir. [1512]

Q. What time in March was that?

A. The 15th.

Q. And you stayed there on the West Side field from that time until May of that year?

A. Yes sir.

Q. What time in May did you leave the field?

A. In the latter part of May, I think.

Q. You were there about two months and a half?

A. Practically two months and a half at that time.

Q. While you were at work on Section 24 of 32-23? Is that correct?

A. Yes.

Q. What was your business on the well on Section 24 that you referred to?

A. I was a driller and had charge of operations.

Q. Whom were you working for?

A. Captain J. S. Lucy, the manager of the company.

Q. And what was the name of the company?

A. I think they call it the Kern Crude Oil Company.

Q. Did you live on the location in Section 24?

A. Yes sir; we had our own camp out there.

Q. How far is Section 24 of 32-23 from the nearest land in the Elk Hills?

A. Section 24 would be about 8 miles, I think.

Q. Now, at that time you say it was the belief of oil men that the oil zone on the west side of the field was contained where?

A. Through that range of hills running from Sunset through the McKittrick.

Q. Did you know anything about oil formations when you went to the West Side fields?

A. What I had picked up and what I had been able to read [1513] and study from books on the subject, trying to obtain some knowledge of the different formations that were passed through, and endeavoring to obtain some knowledge of the oil country.

Q. Where have you principally learned oil geology, if you know anything about it, before you went to the West Side field?

A. Here in the Los Angeles field and the Kern River field.

Q. Now, in the Kern River field the oil formation is uniformly at substantially the same depth all over the field, is it not?

A. Very near.

Q. And within the limits of that oil zone the sink-

ing of a well will invariably strike oil, if you drill deep enough?

A. In that field, in the proven area.

Q. Now, you say that you had occasion, while you were at work as a tool-dresser drilling on Section 24 of 32-23, to go out with a team for the purpose of examining lands for their oil possibilities? Is that correct?

A. Yes.

Q. And you say you made a trip into the Elk Hills?

A. Yes sir.

Q. What month was that?

A. It would be in April.

Q. Where did you go on that trip into the Elk Hills? Just describe your course?

A. We drove through the flat there between the Buena Vista Hills, and drove around through the hills there in an endeavor to locate this particular quarter-section which I think was about what would be the center of the Elk Hills district. I don't recall the numbers.

Q. What township and range?

A. It would be in 32-21, or 32-22, or something like [1514] that.

Q. 32-21 or 32-what-22?

A. Yes.

Q. You can't remember the sections you were in?

A. I don't recall the section at that time; no sir.

Q. Don't you know as a matter of fact, Mr. Howe,

that you were from six to twelve miles away from the Elk Hills when you were in 32-21?

A. Six to twelve miles away?

Q. Yes; from the nearest land in the Elk Hills.

A. I couldn't say that that particular section of land that I was looking through would be in 32-21.

Q. You said you went to the center of the Elk Hills district, in 32-21, or 32-22?

A. Yes sir.

Q. Are you as positive of that as of any evidence you have given here this morning?

A. No; I wouldn't be distinctly positive that the exact location of the quarter-section was there.

Q. Are you as positive that the Elk Hills are located in 32-21 as anything you have testified to this morning?

A. Part of the Elk Hills is in 32-21.

Q. What part of them?

A. The eastern part.

Q. The eastern part of the Elk Hills would be in 32-21? As a matter of fact you don't know where the Elk Hills are, do you, Mr. Howe?

A. They are directly north of the Buena Vista Hills.

Q. What township and range are the Buena Vista Hills in?

A. In 32-24.

Q. So that the Elk Hills would be in 32-21, and would be directly north of it? [1515]

A. They would be in 32—it would be in 31-24.

Q. Then you are not as positive about it as you were, are you—about the location of the Elk Hills? You cannot positively state on your oath what township and ranges are included in the Elk Hills?

A. I can't describe it all; no sir.

Q. And you didn't know where much about the Elk Hills, at that time, did you, after the two months and a half experience in the West Side field?

A. I know where the Elk Hills are; I have been over them.

Q. You don't know what township and range they are in now, do you—positively?

A. No; I couldn't say positively.

Q. What were you looking for when you went into the Elk Hills in 32-21, or 32-24 or 32-22, whatever township and range you give?

A. Looking for this quarter-section of land that had been under contract by this Bartlett. I think he called it Dirigo Oil Company.

Q. Did you go in there for the purpose of looking for this quarter-section of land or did you go there, as you have testified on your direct examination, for the purpose of examining the land with a view of ascertaining whether it was oil territory or not?

A. I went in for both purposes.

Q. In passing on the question of whether it was oil territory, what indications would you look for as an oil man? What surface indications would you look for?

A. Look for the outcroppings of the oil-sands.

Q. And anything else?

A. And the shales—the shale formations.

Q. Anything else? [1516]

A. I would look to see how the formation was in place, and see if the sands were discolored from possible oil that was contained—the seepage indications.

Q. Anything else?

A. And the character of the country.

Q. Would you look for gas-blow-outs?

A. If you see those you would take those into consideration.

Q. Now, if you found oil seepages, oil-sands or croppings of sands, and gas-blow-outs, what would that indicate to your mind in a country in which you were looking for it?

A. It would indicate that it was a possible oil district.

Q. And in determining where you would place your drill, what reference would you make to the position of the oil outcroppings of sand, the gas-blow-outs, oil seepages, and so forth?

A. In the first place, you would see which way the formation was dipping underneath the surface of the ground, and then you would attempt to define the angle of the dip and see how fast it was dipping underneath the surface, and endeavor to go back on the formations to where you could reach the depth of several hundred feet with the oil bearing formations which you had found at the outcrop, to see if there

was oil contained in the sands that cropped to the surface.

Q. Then you regard it as quite important to find these indications of the cropping of sand, the angle or dip of the formation, and the structural condition, in determining the place where you would sink your drill, would you not?

A. Certainly.

Q. Have you acquired sufficient information from your reading of geology and from such experience as you have had as a driller, to know that the petroleum is contained in depositions of sand, which are uniform and persistent in an oil field?

A. Yes. [1517]

Q. You understand, do you not, that these sands have been laid down by the deposition of the sea in a uniform manner over a wide area, and that when the oil migrates into these sands, it follows that sand sometimes for many miles, do you not?

A. Yes; that is true.

Q. And unless the sand is broken—that is, unless the formation in which the oil migrates is broken up underneath the surface by some convulsion or by some intrusion through strain or folding underneath the surface, you would expect that oil to be present all over that sand formation persistently, would you not?

A. It would be presumed to be.

Q. Was that the theory which you understand to

be entertained by oil men at the time you first visited the West Side field?

A. Yes.

Q. That was generally the theory, was it not, among practical oil men?

A. The opinion; yes.

Q. And where along the contact of the main range of mountains you found stains or discolored sand croppings which you took to be oil-sand and ascertained the angle or dip off into the valley, you would expect then to find the oil following that sand formation cut under the valley and into any unlift, unless it was broken up in the meantime by something underneath the surface?

A. Unless it was pinched out.

Q. That is, where the sand itself has pinched out by the fact that it has not been deposited by the sea?

A. Yes.

Q. And wherever that sand is present and where it is not broken up by intrusions or geological disturbances underneath the surface, you would expect to find the oil present in that formation? [1518]

A. For a ways, yes.

Q. How do you determine as an oil man how far that exists? You say "for a ways." Why do you put an arbitrary limit on it?

A. Because after the outcrop has started down under the formations, it may dip down faster than it does at the surface.

Q. I say unless the angle had been disturbed by

some convulsion of nature or folding or strain, you would expect it at the same angle?

A. Most all the oil fields—

Q. Just answer my question.

Mr. Lewers—Just allow him to answer.

Mr. Mills—I will allow him to answer my question at all times.

A. I was going to explain what I meant by “for a ways.” In nearly all oil fields, the sand has a certain limit for oil, and when you pass that limit it is water.

Q. That water is generally found in the synclines, isn't it?

A. Yes.

Q. Water is heavier than oil?

A. Yes sir.

Q. And has a tendency to force the oil up onto the sides of the anticlines?

A. Yes sir.

Q. Do you know enough about geology and geological conditions in the Elk Hills now to say on this record whether the Elk Hills are a structural fold, unbroken by any disturbance visible at the surface.

A. No; I couldn't say.

Q. Do you know?

A. No.

Q. Was your examination in such detail that you can now [1519] state whether that is a fact or not a fact?

A. I couldn't make that statement from the fact that it requires a longer period of examination of the territory than what I was able to give it, to give any thorough testimony in regard to the country.

Q. How much of an examination did you give the Elk Hills at that time?

A. I was through that locality on numberless occasions. I had my own team.

Q. Do you mean a number or numberless?

A. I was possibly there through that district ten or fifteen times.

Q. I mean in the two months and a half that you were in the West Side fields.

A. I was probably in the hills ten or fifteen times.

Q. Did you on any of those occasions get onto what is known as Section 32 of 30-24?

A. I couldn't say that it was that exact section.

Q. You know, do you not, that there is an extensive oil cropping or gas blow-out in the Northwest quarter of Section 32, 30-24?

A. I heard of that; yes.

Q. And you knew of that in the two months and half that you were in the West Side fields?

A. No; I couldn't say that I did.

Q. You didn't know about that at that time?

A. No sir.

Q. You yourself in looking for indications of the presence of petroleum in there either in the Elk Hills or the Buena Vista Hills, which I understand

you did,—did you go into the Buena Vista Hills also?

A. Yes sir. [1520]

Q. Before I complete this question, did you find evidences—conspicuous evidences—of a gas blow-out or oil-cropping in the Buena Vista Hills in Section 11 of 32-24?

Mr. Lewers—Objected to as indefinite. Do you mean gas blow-out or oil-cropping? They are not the same thing.

A. There is a sand blow-out there, evidently from gas.

Q. By Mr. Mills—Did you discover that at the time you went in your peregrinations about that field in those ten or fifteen trips that you took in those two months and a half?

A. Yes sir; I was there in the Buena Vista Hills.

Q. You saw that?

A. Yes sir.

Q. What did that indicate to you as to the oil geology of that particular region?

A. It would indicate to me more presence of gas than oil.

Q. Do you mean to draw a distinction between gas and oil? That gas is present where there is no oil?

A. Yes sir.

Q. And from your geology, as you understand it, in that particular field, you may have gas where there is no oil anywhere?

A. Yes sir.

Q. Is that your understanding?

A. Yes sir.

Q. You don't see any connection between the gas and the oil, do you?

A. There is a connection; yes.

Q. What is the connection?

A. Gas in some localities is in what they call the domes of the oil-sand.

Q. What is a dome?

A. It would be the upraise of the oil-sand. [1521]

Q. Such as on the Buena Vista Hills?

A. Yes sir.

Q. Or in the Elk Hills?

A. Yes sir.

Q. That is where the formation has been lifted up by some structural stress of the interior, and folded up there? Is that correct?

A. Yes sir.

Q. Now, where you find gas in a dome such as you have described, in the Buena Vista or Elk Hills, what connection then would that have with the oil? Where would the oil be with reference to the gas?

A. It would be at the lower level.

Q. But you would find in every instance, would you not, in that field where you find gas coming from a dome of that kind, oil beneath it?

A. You would find oil at probably a considerably lower depth.

Q. But it would be there somewhere, wouldn't it?

A. But it might be quite a ways from there.

Q. But it has an ultimate connection at some point?

A. Yes.

Q. So that gas, in your opinion, from what you read of oil geology, has a distinct connection with oil or petroleum?

A. Yes sir.

Q. Then you would say, would you not, that a discovery of a gas blow-out in the Buena Vista Hills would be an indication to you that there was at some point petroleum, or there would not be that connection?

A. There must have been oil somewhere within a reasonable distance of that gas blow-out. It might be several miles.

Q. Then, if you found a gas blow-out such as that over in [1522] the Elk Hills, you would form the same opinion about the Elk Hills that you did about the Buena Vista Hills, would you not?

A. That might be a gas property, or you might take that same indication, after you saw the gas blow-out, and figure that at some distant time back it had been an oil formation, and through some disturbance of nature of some kind the oil had been burned out, and it would be a burned out oil-sand which contained no oil.

Q. That is to say, that the oil got out and burned, do you mean?

A. That is, from some cause in nature, the sand was denuded of the oil which might have been there centuries ago.

Q. Do you mean waste of oil by evaporation or actual ignition or burned by fire when you say burned out?

A. I wouldn't say—that is an expression they use.

Q. You have no precise idea of just what is meant by that, do you,—by burning out? You don't know whether it is from conflagration or whether it is from natural waste by evaporation?

A. We figure that it is the natural waste.

Q. Did you find this oil seepage or cropping of sand that you heard of on the occasion that you went out to the Elk Hills?

A. No.

Q. And you didn't find any other indications of oil?

A. No sir.

Q. Now, assume that you had found this indication on any one of those trips—this oil seepage in Section 32 of 30-24—what would that have indicated to your mind at that time?

A. If I had discovered gas blow-out?

Q. Yes.

A. Well, it would have indicated that there might be a possible chance for an oil district there.

Q. And on such evidence as that, if you were looking for [1523] oil land to locate it, would you have made locations?

A. I might have made locations, but I doubt if I would have invested any money in it.

Q. You were not a man of very large means, were you?

A. I was in a position to command some money at that time.

Q. How much money could you have commanded at that time?

A. I could have raised twenty-five or thirty thousand dollars for development.

Q. How far do you think twenty-five or thirty thousand dollars would go toward developing territory over in the Elk Hills, assuming that the oil formation is at least 2500 feet deep?

A. It would go a very small way.

Q. So your ability to command \$25,000 would not have helped you much in the development?

A. Not at that time; no.

Q. Assuming that the petroleum deposits which are in the Elk Hills are at a depth from twenty-five to thirty-five hundred feet, or in excess of that, from the surface, would you regard that as a territory for a poor man to let alone?

A. Yes sir.

Q. It would be, in your opinion, a territory to be developed by men of considerable capital, would it not?

A. It would require considerable capital to develop it.

Q. Would you regard a well in the Midway-McKittrick field producing 406 barrels on the gauge, measured for several days, as a good or bad well?

A. For how many days?

Q. Well, for several days, before it was shut down.

A. Several days? What do you mean? Two or three days or thirty days?

Q. I mean two or three days.

A. I would not consider on that test that there was oil in [1524] paying quantities in that well.

Q. Would you regard it as an oil territory?

A. I would regard it as a favorable indication, to be demonstrated by a test of from thirty to sixty days.

Q. Will you please read the last question? (The reporter reads the question.) Would you regard it as an oil territory?

Mr. Lewers—Objected to as indefinite. What do you mean by “an oil territory?”

Mr. Mills—Never mind what I mean. I will conduct this examination.

Mr. Lewers—I submit that the question is unfair unless you can define what you mean by an oil territory. The witness has answered that it is not a commercial oil territory.

Mr. Mills—I call your attention to the fact that you frequently interrupt me in my examination and are always solicitous for plenty of leeway when you are examining witnesses yourself. I am not trying to mislead the witness. You can understand the question?

A. You mean as a commercial oil territory—

Q. No; I mean an oil territory. I am not talking about producing in paying quantities at all. Would you regard it as oil territory, if the well produced for two days or three days on the gauge 406 barrels of oil?

A. I would regard it as a possibility.

Q. Would you regard it an oil territory, is the question. Say yes or no, will you?

Mr. Lewers—I object to that manner of examination.

Mr. Mills—I am entitled to a categorical answer.

Mr. Lewers—I object to that as asking for a categorical answer to a question which no sensible oil man is expected to answer. Oil land may mean a drop of oil in ten miles—

Mr. Mills—This furnishes you an opportunity for another [1525] long speech, and the record will bear me out that your interruption is to prevent the witness from answering the question.

Mr. Lewers—I protest against that.

Q. By Mr. Mills—Have you any objection to the question, Mr. Howe?

A. Well, the proposition is this. When you talk about oil territory, I look at oil territory as a proposition that is going to pay you. If it does not pay you, I wouldn't call it oil territory.

Q. Eliminate the proposition of commercial productiveness in paying quantities. Would you regard it as an oil territory?

A. Well, if the territory produced oil, you would have to say that there is oil there.

Q. Assume that you have a coal mine which had a measure of bituminous coal eight feet in thickness, of high quality, covering 160 acres of land, which cropped at the surface with a gentle angle. Would you call that a coal property?

Mr. Lewers—Objected to as not cross-examination.

A. I would.

Q. By Mr. Mills—You would not put the qualification on it that it was commercially profitable, would you?

A. Not when you try to define it as coal territory, no.

Q. If it is five hundred miles away from a railroad and it cannot be produced at a profit, would you still say it was coal territory or not?

A. Certainly. The coal would be there.

Q. And the same about oil? If the oil is there, whether it can be produced in commercially paying quantities or not, it is oil land, is it not, in your opinion?

A. It has oil on it; yes. If you produce it from the territory, there is certainly oil there. But the question of a commercial— [1526]

Q. I didn't ask you anything about commercial. You inject that yourself. I just asked you whether it was oil territory. Now, as a matter of fact, Mr. Howe, if you found that on Section 24 and on Sec-

tion 26 of one township in the Elk Hills they had discovered oil, and that on another section cornering on Section 26 in the adjoining township in the Elk Hills they had produced a well which showed on the gauge for at least two or three days 406 barrels daily, and that afterwards this well was shut off so that it could not produce if it wanted to, would that modify your opinion about the Elk Hills as an oil territory?

Mr. Lewers—Objected to as a hypothetical question not based on any evidence in the case and contrary to the evidence in the case.

A. For that immediate vicinity.

Q. By Mr. Mills—To what extent would it modify it? Would you regard that immediate vicinity as good oil territory?

A. Not till it was further demonstrated.

Q. I am placing limitations in my question. Read the question again. (The reporter reads the question) What do you say?

Mr. Lewers—I submit that it has been answered.

A. The existence of the oil there has been demonstrated, but when you take it as an oil territory, as I am looking at it, on a commercial basis—

Q. By Mr. Mills—You wouldn't regard the land immediately under that drill even as oil territory, would you, Mr. Howe,—in the hole itself—you would not regard that as oil territory?

A. I would say there is oil there; certainly.

Q. But it is not oil territory in your opinion?

A. It is not oil territory unless it is a commercially paying proposition.

Q. Is it oil land? [1527]

A. You can call it oil land; yes sir.

Q. Well, I am very much obliged to you for that concession. Have you any prejudice against the government in this suit?

A. I don't know that I have.

Q. You don't know that you have? Do any of your neighbors know?

A. No sir.

Q. Have you had any trouble with the government in any way about the location of lands?

A. No sir.

Q. You are not sensible now of any particular prejudice against the government and in favor of the railroad company in this litigation?

A. No sir.

Q. When did you first hear of this litigation?

A. Several months ago.

Q. How did you hear about it?

A. Through the medium of the newspapers—the California Oil World, which I take.

Q. When were you first notified that you might be a possible witness in this case?

A. Possibly two months ago.

Q. Who notified you?

A. Mr. Jeffers.

Q. Where did he see you?

A. I think I met him at Bakersfield.

Q. What did he say to you at that time?

A. He asked me if I had ever been out to the West Side.

Q. Did he tell you what the railroad company would like to prove out there?

A. He told me—

Q. Answer that question, if you will. [1528]

A. What was the question?

Q. Did he tell you what the railroad company wanted to prove in the Elk Hills?

A. He told me they wanted to hold their title to the land.

Q. Did he tell you what they wanted to prove as to the Elk Hills?

A. I don't know that he did definitely.

Q. You don't know that he did?

A. No sir.

Q. Did he tell you that it was the purpose to get somebody to condemn the Elk Hills as an oil territory?

A. He told me that the railroad company wanted witnesses who had been out in the territory, as to what their opinion was as to the land—if it was oil land or agricultural.

Q. And at that time did you tell him that you had had the rich experience of two months and a half in the West Side fields in 1901?

A. Yes sir; he asked me if I had been in that locality.

Q. And you told him about the vast experience that you had over there in two months and a half?

A. Yes sir.

Q. And that you didn't find any oil?

A. Yes sir.

Q. And that you were willing to come down here and tell all about that? Is that correct?

A. He asked me if I would come and I told him yes.

Q. When did it first occur to you that you had been in the Elk Hills in 1901? Who suggested the date to you? Who suggested the date 1901?

A. It didn't require any suggestion, because I knew that I had been there.

Q. I am speaking now as to whether it was suggested at that [1529] time by either you or Mr. Jeffers as to the importance of your having been there at that certain date. Was that suggested?

A. No sir.

Q. How many times did you ever talk to Mr. Jeffers?

A. I saw him twice.

Q. Both times in Bakersfield?

A. I saw him in my office at the Union Oil.

Q. When did you have your talk with Mr. Lewers?

A. I saw Mr. Lewers this morning.

Q. Is that the first time?

A. Yes sir; the first time I ever met the gentleman.

Q. You had two months and a half experience on Section 24 of 32-23 on the West Side field in 1901, during which you went with a team several times into the Elk Hills and the Buena Vista Hills?

A. Yes sir.

Q. And you never came back to that field until March, 1908? Is that correct?

A. That is correct.

Q. And on that you are willing to go on record here as saying that in your opinion as an oil geologist—

A. I don't claim to be an oil geologist.

Q. —that the Elk Hills is not an oil territory?

A. I would consider it not to be oil territory.

Q. You are perfectly willing to say that notwithstanding all the development and the fact that they brought in a well there with 406 barrels a day—you are still willing to say that it is not oil territory in any part of it?

A. In that immediate vicinity where they have got the 406 barrel production there may be a small pool there of oil territory. The development over there has not shown it. [1530]

REDIRECT EXAMINATION

OF

BENJAMIN M. HOWE.

By Mr. Lewers:

Q. Have you any other information than the particular statement of Mr. Mills that there is a 406-barrel well?

A. I have no other information.

Q. And your answer is made on the basis of the proposition made by Mr. Mills?

A. Yes sir.

Q. Mr. Mills has given a good deal of attention to having that land characterized as oil land because there is some oil there. Is that what an oil man calls oil land?

A. No sir.

Q. What does he call oil land?

A. Oil land that has oil in commercially paying quantities—which will pay for the expenditure of the drilling of the wells and where he has a possibility of getting his money back in dividends.

Q. Are those two things the same thing? When you find oil in land is it always paying?

Mr. Mills—Objected to as wholly immaterial. The question in this case is not whether the land is oil in paying quantities. The question is whether it is mineral land and was so known to the railroad company before the land was selected.

Mr. Lewers—Unfortunately the authorities are all against you on that.

Q. Answer the question.

A. No sir; it is not.

Q. Have you had any experience in connection with drilling near a gas-blow-out for oil?

A. No sir. [1531]

Q. Are you familiar with the numbers of the townships that comprise the Elk Hills?

A. No; I can't say that I am.

Q. Do you know where the Elk Hills are themselves?

A. I know they are north of the Buena Vista Hills—a range from close to Cole's levee at the north end of the Buena Vista Lake—that range of hills running from the Lake over to McKittrick.

Q. And those are the hills that you were in in 1901, are they?

A. Yes sir.

Q. At the time when you were in there in 1901 you state that you were able to control or would have been able to command twenty or twenty-five thousand dollars? Is that correct?

A. Yes sir.

Q. Was there anything to prevent you from getting other people who were able to command money going in there with you if you had something good?

A. No sir.

Q. What is the usual practice in the way of starting wells in new oil territory, as to the thing being done by one individual or more?

Mr. Mills—Objected to as wholly immaterial.

A. It is done generally by corporations. Very few individuals would care to start on a wild-cat proposition out of their own pocket.

Q. What would you term the work done in the Elk Hills beginning in 1909 to the present time? Is that actually developed producing territory or is it something else? Do you understand what I mean?

A Most of the work done in the Elk Hills—you mean from 1909 and subsequent? [1532]

Q. Yes.

A. They brought in what they call in the oil world “dusters.” That is, dry holes—outside of the well which Mr. Mills speaks of.

Q. Now, referring to the persistence of oil sands, what has been your observation and experience in the fields as to whether there is a blanket of sand that uniformly underlies a large territory, that you can find everywhere you go? What is the fact as to that? Does that sand continue indefinitely in that way?

A. No; it thickens and thins out. Around the Maricopa district it is irregular.

Q. Is there any certainty, basing your answer on your experience in the oil business, that when you have a well in one quarter-section that is producing oil that a well a mile away from there will produce oil?

Mr. Mills—Objected to as immaterial, the way the question is constructed. It might be up in the mountains, away off of the oil-sands entirely.

A. It depends entirely, Mr. Lewers, on the position of the well and the formation.

Q. By Mr. Lewers—Well, suppose that you have a well a mile away that is, so far as surface indications are concerned, apparently on the same formation. Is there any certainty that that well will produce oil?

A. No sir.

Q. Would there be any certainty that a well seven or eight miles away from any producing well in territory that has not been developed, would produce oil?

A. No sir.

Q. And was it the general belief amongst oil men in the early days in 1901 when you were in there, that if a well was sunk 6 or 7 or 8 or 10 miles away from a producing well, that [1533] there would be any probability of finding oil?

A. That was not the feeling; no sir.

RECROSS EXAMINATION

OF

BENJAMIN M. HOWE.

By Mr. Mills:

Q. It is a fact, is it not, Mr. Howe, from what you know of the Elk Hills territory and the development there at the present time, that the Associated Oil Company has made three oil discoveries in three different sections of land instead of one, as you have stated?

A. I understand they have a discovery in two, but not to my knowledge have they three.

Q. You don't know that they have discovered oil in Section 24 of 30-23?

A. They have oil in 22.

Q. Section 22? And where else?

A. And I couldn't state accurately the other section.

Q. Section 22 is altogether a new information to me. I didn't know that they had made a discovery on that section. That makes four discoveries, so far as my information goes.

Mr. Lewers—Are you testifying into this record, Mr. Mills? There has been no question asked Mr. Howe as to the discoveries of that kind. He testifies that he has not been in there recently.

Mr. Mills—I am asking the fact.

Mr. Lewers—No; you are stating the fact.

Q. By Mr. Mills—I will ask you if you know as a matter of fact from your own personal knowledge that the Associated Oil Company has or has not made three oil discoveries on three different sections of land in the Elk Hills.

A. I don't know of my own personal knowledge that they have made three discoveries; no sir. [1534]

Q. And you don't want to testify here under oath that they have not, under those conditions, do you?

A. No sir.

Q. Now, that land which you examined in 1901 was near Section 34, Township 30-22, was it not?

A. Near Section 34?

Q. Yes; of Township 30-22?

A. At what time?

Q. In 1901 when you say you went to the Elk Hills to look at this section of land.

Mr. Lewers—I submit that the question is unfair. Mr. Howe testified that he don't remember the township.

A. I don't recall the township or range or section of the land at that time.

Q. By Mr. Mills—What was the name of the property?

A. If I remember correctly, it was on the old map as the Dirigo Oil Company. D-i-r-i-g-o. I won't be positive as to that.

Q. Did I understand you to testify, Mr. Howe, that it was east of the 1901 property?

A. Oh, that was some property down in 1904.

Q. Oh, then I am mistaken about that. I withdraw that. Do you know from your personal knowledge, and is it not a fact, that all of the wells which have been brought in in the Elk Hills, got gas?

A. I don't know that they got petroleum gas.

Q. Do you know that they got any kind of gas?

A. It is very hard to drill a well anywhere that you won't get gas.

Q. Do you know that the gas came in such a quantity on the Redlands Oil Company property that it ignited and burned up the rig? Do you know that?

A. No sir. [1535]

Q. Do you know that all of those wells that you designate as dusters struck gas at some point in their drilling?

A. I know that they had gas; yes sir. In some of the wells.

Q. You have answered in response to a question of counsel for the defendant that even if you came

out on the formation from the oil-sand-cropping, and in the direction in which the angle dips, that the drilling of a successful well is not always a certainty. That is correct?

A. Yes.

Q. The successful drilling of any well, any oil-well, is not a certainty?

A. It is not a sure certainty.

Q. There is an element of hazard in drilling a well any place to get oil?

A. Yes sir.

Q. People don't go into the oil business on a dead certainty that they will make money?

A. Well, they have that inspiration that they are going to make money.

Q. They have the hope that they are going to make money?

A. Yes sir.

Q. But it is not at all certain in any oil field that any particular drill will get oil, is it?

A. Yes, it can be demonstrated that in certain locations you will get oil. That has been by lots of development previous to your entry in that particular district.

Q. Then, I understand you to say now, there are conditions, after there has been some development, by which you can go out and place a drill and be dead certain of getting oil?

A. You are morally certain. You can't be absolutely certain.

Q. And that certainty is based upon the surface indications, [1536] the dipping of the formation and the previous developments, is it not?

A. Yes; to a large extent.

Q. And it amounts to such a certainty, does it not, that it forms what you would regard, as an oil man, as a good investment proposition?

A. In asking that question do you mean going into a developed district or into an undeveloped district.

Q. I am taking it under the conditions which you have imposed. You say there are conditions where there has been some development and where the sand-croppings are favorable and the angle is favorable that there is a moral certainty that if you use judgment in selecting your spot to sink a drill you will find oil?

A. That is, in a developed district where there has been considerable development done.

Q. From that you would infer that the oil sands have some uniformity and persistence?

A. They have, yes.

Q. Let me ask you this question: Did you see the report made by the geologist, Ralph Arnold, on the well which you speak of in the Vallecitos district in San Benito county? Did you see the report made by Mr. Arnold?

A. I think I have a copy of it.

Q. Did you see the report of Mr. King?

A. I have a copy of Mr. King's report.

Q. Who was Mr. King? Where does he have his office?

A. He was located, I believe, in Fresno for a while. His report was secured by some Fresno people.

Q. Is he still here in this country?

A. I don't know where he is at present.

Q. Do you know what Mr. King's business was while he was [1537] in Fresno?

A. I think he is a mining engineer.

Q. He was not a geologist, was he? He was an engineer?

A. A mining engineer, and claimed to be a geologist and have some knowledge of the oil business.

Q. But his paramount business is engineering, isn't it?

A. That I couldn't say.

Q. Do you want to have it appear upon the record that you have no confidence in Mr. Ralph Arnold whatever as a geologist?

A. No.

Q. He is recognized on the coast?

A. He is recognized as—

Q. Is he a competent and thorough oil geologist?

A. Yes, but he is liable to make mistakes in his deductions. He is not able to see all conditions which possibly make changes in the formations he can see.

Q. Do you know of any practical oil man who is

better qualified than Mr. Arnold is to make deductions to be correct in the matter of oil geology?

A. I don't know that I know any one better than Mr. Arnold or that has any better reputation than Mr. Arnold.

Q. From that one failure which was made in Vallecitos that you have referred to, you would not say that Mr. Arnold was incompetent as a geologist to determine the successful drilling of any well?

A. No, you can't hold one failure against a man.

Q. And you have as much confidence in Mr. Arnold's opinion of oil geology as you have of any practical oil man that you know of?

A. I have as much confidence in Mr. Arnold's opinion as I have in any geologist that I know of.

Q. Either practical or theoretical? [1538]

A. Practical. Theories don't always carry out.

REDIRECT EXAMINATION OF

BENJAMIN M. HOWE.

By Mr. Lewers:

Q. It is a fact, is it not, Mr. Howe, that even the best of them have to guess at it?

A. There is a certain element of guess in it.

[1539]

THEODORE TRACY, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

I am now living at Bakersfield where I am employed in the cigar business. I own a ranch of about

2,000 acres at Button Willow, and was first employed by Cox and Clark and later by Miller & Lux in running cattle on the range.

I am familiar with the Elk Hills and first went into them in 1875 and have been in them a great many times since then running cattle. These hills are used as a range by Miller & Lux, and many other people. I was in the Elk Hills between 1900 and 1905. At that time there was no work going on in those hills.

I was connected with some locations that were made in the Elk Hills by Si Drouillard and others but never spent any money on them.

The actual mining work began in the Elk Hills about three years ago. I never heard the Elk Hills discussed as oil territory from 1900 to 1905 and the first I heard them mentioned as prospective oil territory was about three years ago.

CROSS-EXAMINATION

—of—

THEODORE TRACY

I am now working in a retail cigar stand at Bakersfield, just putting in time. After I had work for others in the cattle business I was engaged in the cattle business myself but sold out about four years ago. Buttonwillow where I was located is about three or four miles north of the Elk Hills.

I have been in the cattle business since 1875. I am not a bit interested in oil development and never was interested in any other business than the cattle

business and the cigar business that I am now in. I never paid any attention to oil development. The only way I would know an oil seep from a horse doctor [1540] would be if the seep was good and strong, otherwise I wouldn't know the difference. I never was sufficiently interested in the oil business to even discuss it. I didn't care anything about what went on in the oil business around me, paid no attention to it and I don't know anything about geological oil formations.

JOHN J. McCLIMANS, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I am now living at Fellows in the West Side field. I am superintendent of the Olig Crude Oil Company and have been connected with that company since December, 1900. Prior to that time I lived in Penando County, Pennsylvania, and was engaged in the oil business there. I have been in the oil business ever since I was big enough to work—since about 1884.

I came to California in 1900 and went to McKittrick and was employed on Sec. 13 about two and one-half miles northwest of the town of McKittrick, by the Pacific Crude Oil Company. I worked for that company until 1904 when it was reorganized into the Olig Crude Oil Company. I still have charge of that property and also of property in the Midway, where they moved about two years ago. During this

time I have had practical experience in development of oil properties, but only for the Olig Crude Oil Company. I went into the Elk Hills in 1901 and was there last year and also three years ago. In 1901 I crossed along on the edge of the hills in going from McKittrick to Maricopa.

From 1900 to 1905, the oil development was along the Temblor Range. The only place where there was any oil at that time between McKittrick and the Sunset was in the Midway on Sec. 8, 32-23. Between that and McKittrick there was no development at all. While at McKittrick the development was south and west of the town. [1541]

The impression at that time amongst oil men was that the oil was very narrow and I know that they were afraid to go out one side or the other for fear they would get off the belt, and they hugged the Temblor Range pretty close. This continued to be the idea, to my knowledge, up to 1908. At that time they thought oil might be everywhere and began to take up land all over that country. They thought everything was oil land.

From 1900 up to as late as 1908, I never heard the land in the Elk Hills discussed as oil territory by people in that vicinity. Nobody ever bothered the Elk Hills, to my knowledge.

I have been in the Elk Hills twice since 1908. I visited the Associated Oil Company's property on Section 26, 30-23 a little over a year ago, at which time they were drilling but no discovery had been

made to my knowledge. I heard that there had been a discovery and visited the rigs but saw none.

CROSS-EXAMINATION

of

JOHN J. McCLIMANS

By Mr. Mills:

Q. You are what they term an oil man, aren't you?

A. Yes sir.

Q. By that you refer to an oil producer, or a man dealing in oil lands?

A. No.

Q. What do you refer to?

A. I was superintendent and operating drilling for a company.

Q. You don't mean an oil prospector or oil geologist whose particular work is the examination of lands in order to determine whether they are oil lands or not?

A. No; I am not a geologist.

Q. Your business is really and exclusively operating for the [1542] purpose of production?

A. Yes sir.

Q. After the well has been placed by somebody else?

A. After the location has been placed.

Q. In other words, you take up your work after the prospecting has been fully completed?

A. Yes sir.

Q. You yourself have never prospected any lands?

A. Not myself.

Q. And you have not located any lands?

A. No sir.

Q. In other words, you are not interested in that phase of the oil business?

A. No.

Q. You are particularly interested in the actual operation after that work has all been done by somebody else?

A. Yes sir.

Q. Then your experience and the work you would do in the operation of your particular phase of the oil business would be confined to the actual production after all the preliminary work of prospecting and locating had been accomplished?

A. I don't know what you mean by prospecting. After the location has been made. I have prospected in the same way for the Olig Crude Company. It was practically a wild-cat country.

Q. Did you do any locating there on that prospecting?

A. No sir.

Q. Your work, as I understand it, then, is taken up in the actual operation of the well and production of oil?

A. Yes sir.

Q. And that you gave your principal attention to, isn't that so?

A. Yes sir. [1543]

Q. You say that in 1901, you visited the Elk Hills on a trip from McKittrick to Maricopa. Was that merely incidental to the trip that you took, or did you have business in the Elk Hills?

A. I had a friend in Maricopa and I went that way.

Q. What townships and ranges are the Elk Hills located in?

A. You have got me. I didn't pay that much attention to it. I know where they are, but I don't know the townships.

Q. Generally, in what direction from McKittrick is Maricopa?

A. Maricopa from McKittrick is southeast.

Q. And what township is McKittrick in?

A. I would have to look at a map to find that out.

Q. Is it in 30-22, if I would suggest the name to you?

A. I couldn't say that positively.

Q. I will tell you that it is in 30-22. Township 30 South, 22 East. Where in relation to the town of McKittrick are the Elk Hills? In what direction?

A. Well, they lie almost east.

Q. About how many miles to the nearest hill?

A. The nearest hill is about three or four miles, I think. Three miles from McKittrick.

Q. And in coming down to visit this friend of yours, you crossed the Elk Hills?

A. No; I didn't cross the Elk Hills. I went

through the valley on the edge of the Elk Hills,—
between the Elk Hills and Buena Vista Hills.

Q. To Maricopa?

A. Yes sir.

Q. Did you select the usual traveled route in
going there?

A. Yes sir.

Q. That is to say, you went down the flat or val-
ley between the Elk Hills and Buena Vista Hills
in your way to Maricopa?

A. That is it. [1544]

Q. And in doing that, you selected the usually
traveled route?

A. Well, there is two roads; One that went di-
rect through the Midway flat, and the road that
went down by the lake.

Q. In following out the road which you took at
that time, as a matter of fact, if you had kept on,
you would finally drive right into the Buena Vista
Lake, wouldn't you?

A. Yes sir.

Q. And be some twelve or fifteen miles from
Maricopa out of your way?

A. Not that far.

Q. Not twelve miles out of your way in Mari-
copa?

A. No. I think there was probably five or six
miles difference.

Q. Did you go as far as Buena Vista Lake in
your drives?

A. Yes sir.

Q. Did you go around the eastern side of the Buena Vista Hills?

A. Yes sir.

Q. On the lake side of the Buena Vista Hills? Is that correct?

A. Yes sir.

Q. What was the valley called between the Buena Vista Hills and the Elk Hills at that time?

A. I don't know whether it had any name or not.

Q. Did you ever hear it called the Elkhorn Valley?

A. I have since that.

Q. I understand you started from McKittrick and went down the valley between the Buena Vista Hills and the Elk Hills till you come to the Buena Vista Lake?

A. Yes.

Q. And then skirted on the eastern side of the Buena Vista [1545] Hills down to Maricopa?

A. Yes sir.

Q. In doing that, you went some twenty-four miles out of your way, did you not?

A. Not to my knowledge; no.

Q. How long did it take you to make that trip?

A. I think about five hours.

Q. From McKittrick to Maricopa, via Buena Vista Lake, around the eastern side of the Buena Vista Hills?

A. Yes sir.

Q. What time did you start in the morning?

A. I started in the afternoon.

Q. What time?

A. Two o'clock.

Q. What time did you arrive at Maricopa?

A. At seven o'clock.

Q. Now, Mr. McClimans, did you keep on the road all the way?

A. I can't tell you as to that. There wasn't much road to it.

Q. Did you keep on following up what you supposed to be the road?

A. Yes; I went that way because the road through the Midway country was cut up so bad and dusty by team work.

Q. That was in 1901?

A. 1901.

Q. And you never visited the Elk Hills again un-1908 or '09?

A. 1910.

Q. And then you were in there for how long a time?

A. Just made a trip over there in a machine.

Q. From where to where?

A. From Fellows over onto 26.

Q. Onto 26, 30-23, where the Associated well is?

[1546]

A. Yes sir.

Q. From Fellows to where?

A. From Fellows over onto Section 26 in the Elk Hills.

Q. And back to Fellows again?

A. Yes sir.

Q. How long a time did you spend in the Elk Hills?

A. I was there three or four hours, I guess. I visited several rigs.

Q. Did you ever make any visit to the Elk Hills besides that?

A. One after that in 1911. Practically the same thing.

Q. Where did you leave from then?

A. The same place.

Q. Fellows?

A. Yes sir.

Q. Went up in a machine?

A. Yes sir.

Q. And spent about the same length of time?

A. Yes sir; just about the way I did before. I went with the same men.

Q. And back to Fellows?

A. Yes sir.

Q. Whom did you go with?

A. Bert Dunn of the Associated Supply.

Q. How do you spell his name?

A. Dunn.

Q. On this trip in 1901, where you took the road down the valley between the Buena Vista and Elk Hills and around the eastern side of the Buena Vista

Hills to Maricopa, and from there to McKittrick, how many miles did you traverse in those five hours?

A. I couldn't tell you that.

Q. You kept pretty busy going? [1547]

A. Yes sir.

Q. You didn't stop anywhere?

A. Not to speak of at all. I stopped at the upper end of the lake.

Q. You didn't stop off, peradventure, to go up and make a trip into the Elk Hills?

A. No sir.

Q. You kept right along busy on that road?

A. Yes sir.

Q. So your visit was really by proxy into the Elk Hills in 1901

A. Yes sir.

Q. In other words, your visit was made by the roadside down in the valley?

A. Yes sir.

Q. And you obtained no specific detailed geological knowledge of the formation of the Elk Hills in the time that you made that trip around through the valley?

A. No sir.

Q. And you never have made any detailed specific examination of those lands to ascertain their geological formation or their possibilities, have you?

A. Well, I have looked at the formation, but not in those trips.

Q. Those are the only trips that you say you made. What other trips did you make?

A. I never did make any other trip.

Q. Then your knowledge is obtained by those three trips—your personal knowledge?

A. What of?

Q. Of those hills.

A. I didn't have any knowledge of them. I don't think there [1548] was anything there, but I didn't bother about them.

Q. I don't care about your volunteering any more. Respond to my question.

Mr. Lewers—Your answer is responsive. If you treat the witness respectfully, he will treat you respectfully.

Mr. Mills—He is treating me very respectfully. I think very kindly of Mr. McClimans, notwithstanding your vociferous objections. You never made any reconnaissance of those hills?

A. No sir.

Q. And you don't feel yourself competent as a geologist to pass an opinion as a geologist upon the formation of those hills, from what you know of them?

A. Not from the surface formations, no sir.

Q. Your personal information obtained at first hand, both of the surface indications and of the structural formation of those hills, was obtained at a time when you were not making any special study whatever of the hills?

A. No sir.

Q. On two trips that you took in an automobile going up on Sections 26 and 30, where the Associated wells are in 11?

A. No; when I went on the hill, I went there for the purpose of seeing oil in the wells that were on the hill.

Q. But you did not make any study of the geological conditions in the hills?

A. No sir.

Q. In other words, you did not trace out the anticline?

A. No sir.

Q. You did not examine the hill for the purpose of examining and determining whether there were any sand-croppings—

Mr. Lewers: Objected to as not cross-examination. I wasn't asking about geological conditions or anything else in that respect, and counsel is merely consuming unnecessary time in his [1549] cross-examination.

Q. By Mr. Mills—gas blow-outs or other physical evidences of the presence of petroleum, did you, Mr. McClimans?

A. No sir.

Q. You just made a random visit in there to those wells?

A. Yes sir.

Q. Such as you would make to any wells?

A. Yes sir.

Q. Now, basing your answer on what you know of the Elk Hills from your personal observation on those two trips and your long-distance observations made from the road in the valley, you are not able now to pass any opinion whatever upon either the geological formation of the hills or their possibilities for oil, are you?

A. As far as that is concerned, I don't think there is any possible chance of getting any oil in the Elk Hills, to my knowledge.

Q. Do you base that on the two trips that you made?

A. The last two trips. The first trip, I knew nothing about it. I wasn't looking for oil at that time and, in fact, I don't think that anybody figured on there being any oil in the Elk Hills at that time.

Q. But on your last two trips, you base your statement?

A. Yes sir.

Q. And at that time you made no study whatever of the conditions, you say, of the geological formation, or had any knowledge whatever, obtained by you on those trips, of the sand croppings, of the anticlinal structure, and nothing whatever but a visit to these holes, and you are willing now to go on record under oath on a statement of that kind with that limited information? Is that correct?

A. I don't exactly know what you mean. I never took any [1550] geological information, any-way. I never took that up. I never went on any-

thing like that. I always went from what I found coming out of the well in the formation in the ground that we take out in drilling operations, and I didn't see anything at that time in the wells that I visited that looked anything like oil.

Q. Are you connected with the Associated Oil Company?

A. No sir.

Q. Or the Southern Pacific?

A. No sir.

Q. Or the Southern Pacific Railroad Company?

A. No sir.

Q. Or remotely or directly with any of the defendants in this case?

A. No sir.

Q. Did the Associated Oil Company at that time you visited the well throw open their log to you?

A. No sir.

Q. Did they furnish you extra facilities for examining their wells?

A. No sir.

Q. You were just a visitor as any casual person or observer would be, coming in an automobile?

A. Yes sir.

Q. Did you have any extraordinary facilities by which you could form a correct judgment, not having seen the log of the well, and having no facilities afforded you other than the right to go on their property, from which you could form an opinion?

A. All the way I could form an opinion would

be from the location of the conditions around the well, and if they were working on the well, to see what was coming out of the well.

Q. They were not working on the well at that time, were they?

A. Yes sir. [1551]

Q. Which well were they working on?

A. I couldn't tell you exactly; it was on 26.

Q. Were they working on the well in Section 30 in 30-24?

A. Yes, but they were not down when I was there. They were not deep enough to get oil if there was any.

Q. So, if they discovered oil, it was after your last visit there?

A. Yes sir.

Q. Do you know as a matter of fact that since your last visit the Associated Oil Company have discovered a well which will produce on a gauge 406 barrels of oil a day?

A. For how long?

Q. Do you know that to be a fact?

Mr. Lewers: I object to this question because it is constantly asked, and counsel knows it is not a fair question. It assumes that it is a regular steady production, and there is no testimony to that effect.

A. I do not.

Q. By Mr. Mills: Assuming it to be a fact, Mr. McClimans, that they have discovered a well which runs 406 barrels of petroleum a day on the pump,

and which will probably increase in its amount when it is kept on the pump, but which has been temporarily stopped by the company operating the well, would you regard that well as a good indication of oil territory in the Elk Hills?

Mr. Lewers: To which I object on the ground that it is a hypothetical question not based on the evidence in the record and contrary to the evidence in the record, and indefinite, because it does not furnish any data as to the length of the production.

A. I do not believe it to be a fact.

Q. By Mr. Mills: I say we will assume it to be a fact. You needn't volunteer something that is not the question. I say we will assume it to be a fact.
[1552]

Mr. Lewers: You are volunteering something that is not in the evidence. He has a right, in the light of his knowledge not to take your assumption.

Mr. Mills: Well, the gentleman is willing to take an assumption.

A. Any oil property that will produce 400 barrels a day is profitable.

Q. That is, in the McKittrick-Midway field?

A. Yes sir.

Q. And assuming it to be a fact, which you say you don't know, and basing it only on the assumption that the well will produce 406 barrels a day, and possibly increase its output, would you regard that as an indication of a splendid oil territory?

A. Not a splendid oil territory for that depth.

Q. I didn't say anything about depth. Did I say anything about depth?

Mr. Lewers: I object to that question because counsel must not assume that the witness is entirely ignorant with the situation that he has observed. If you are going to make a statement of a hypothetical question, put in all your facts. It might be one foot deep, for all you know, or for all you say.

Q. By Mr. Mills: Are you willing to concede as a practical oil producer that a well in the McKittrick-Midway field, regardless of its locality, so long as it is in that field, which will produce continuously for an indefinite period of time, upwards, of a year, we will say, 406 barrels of oil a day, and probably increase that amount gradually, is a good oil proposition, and that the land on which that land is placed and the contiguous land is good oil territory? And, say, the gravity is 28.

A. Yes; that would be good territory.

Q. Would you regard that as good as any territory where they have not developed what you call a gusher or something extra-[1553] -ordinary in the McKittrick-Midway field?

A. I couldn't catch you.

Q. Would you regard it as good oil territory as the average successful territory in the Midway-McKittrick field?

A. Yes sir.

Q. Now, assume it to be a fact that on Section 24 and on Section 26, in 30-23, they have discovered oil,

and that on Section 30 which corners on 26 in 30-24, they have produced a well which has been designated by some authorities as the best well in the McKittrick-Midway field, running at least 406 barrels a day. Would you say that that was sufficient, if it would run for a year at that rate, to prove that to be excellent oil territory?

A. I don't know anything about it. I never heard of it.

Q. I am assuming the fact. Would you regard it to be oil territory?

A. I said that before. That I regarded a 400-barrel well, if it would last or pump or produce 400 barrels a day for a year,—it would be a paying proposition. It would be oil territory. Good oil territory.

Q. You say you are in touch with conditions in the oil business in the West Side field from 1901 to 1904?

A. Yes sir; with the exception of one year.

Q. What year do you except from that?

A. That was from December, 1901, till—It was a year and a half. From December, 1901, till May, 1903.

Q. December 1st, 1904, you were over there—or substantially at that date,—on the West Side field?

A. Yes sir.

Q. About how many wells, as near as you can recollect, were in Township 30 South, 21 West, at that date—wells which had struck oil?

A. I couldn't tell you how many wells there were.
[1554]

Q. How many wells which had struck oil were there, on December 1st, 1904, in Township 30 South, Range 22 East?

A. In the McKittrick field?

Q. Yes.

A. I never counted the wells. I don't know how many there were. There were several of them.

Q. On the same date, in Township 32 South, 23 East, how many wells would you say as one having been in touch with the conditions there on December 1st, 1904, which had struck oil and were producing?

A. I couldn't tell you anything about the sections. I didn't keep no track of them.

Q. I am speaking of townships.

A. That takes in the McKittrick field?

Q. 32-23 takes in the McKittrick field?

A. I don't know where it takes it. I don't know anything about it.

Q. You are not familiar with the township numbers and names?

A. Not unless I get a map and look them over.

Q. Yet you have been in that field some time?

A. Yes sir.

Q. And have not acquainted yourself with the townships, ranges, and numbers?

A. Only in certain places—certain sections; those that I am interested in.

Q. How many wells were there on December 1st, 1904, in Township 30 South, 24 East?

A. I don't know.

Q. How many wells were there on December 1st, 1904, in Township 12 North, 24 West, San Bernardino Meridian?

A. I don't know.

Q. How many wells, do you know, in successful operation on [1555] December 1st, 1904, in Township 11 North, Range 24 West, San Bernardino Meridian?

A. I don't know.

Q. In Township 11 North, Range 23 West, San Bernardino Meridian?

A. I don't know.

Q. How many wells altogether were there which had struck oil anywhere in the McKittrick-Midway-Sunset field on December 1st, 1904, or prior to that time?

A. I couldn't tell you how many.

Q. Don't you know as a matter of fact there were upwards of 300 successful wells in 1904, in December, from McKittrick to Sunset?

A. No sir.

Q. Do you swear that they were not?

A. No.

Q. You simply don't know it to be a fact?

A. I do not.

Q. As a matter of fact, Mr. McClimans, your recollection at this time is not very definite, is it, as to

just what the conditions were there year by year in those fields? In other words, you cannot segregate what difference there was in such a year as distinguished from the year following, can you, during the course of the twelve or fifteen years?

A. From 1904 up to 1908 there was very little work done.

Q. I mean taking it from 1900 till 1904.

A. There was very little work done from 1902 up till 1908 or '09.

Q. (The question is read by the reporter.) Can you give me a more specific response to that question?

Mr. Lewers: I submit that the answer is responsive.

Q. By Mr. Mills: Can you now, Mr. McClimans, after the pass- [1556] age of the number of years, recall back distinctly enough to remember definitely what progress was made between the year 1904 and 1905 in that entire field?

A. Nothing at all, I don't think.

Q. Can you remember sufficiently to say that there were no wells put in during that time?

A. Well, there probably was between Sunset and McKittrick one or two or three.

Q. Taking the entire field from McKittrick to Sunset? My purpose is not to mix you up, but to test your recollection to see whether you can now after a passage of these years distinctly remember

year by year the number of wells that were put in each year in that entire field.

A. No; I could not.

Q. As distinguished from any other year?

A. No.

Q. It would be hopeless for you to attempt to do that?

A. Yes.

Q. Do you know of anybody else in the oil business that could do that?

A. I do not.

Q. The best record of the development there is the public records that are left of the wells that are brought in?

A. Yes.

Mr. Lewers: And where is that?

Mr. Mills: That is in certain maps that were produced year by year showing the state of development.

Mr. Lewers: Public?

Q. By Mr. Mills: Yes, public. Sufficiently so that the oil men kept in touch with those matters. That is true, isn't it, Mr. McClimans?

A. I don't know anything about that. [1557]

Q. You don't know as a matter of fact definitely just the number of wells there were in any one year on the front of that range from McKittrick to Sunset?

A. I do not.

JOHN LANG, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

I live at McKittrick, Kern County, California, and at the present time deal in oil lands. I have been connected with the actual production of oil, however, since 1900. Part of my experience was in the Kern River field and part in the McKittrick and Santa Maria fields. I ceased my connection with active field work in the oil business in February of this year. At that time I was superintendent of the Hill Crest Oil Company.

I went into the Elk Hills for the purpose of drilling a well for the Hill Crest Oil Company on Sec. 28, T. 30-23, in February, 1910, and we started the actual drilling on October 24th of that year. We drilled to a depth of 1670 feet. We found some gas at 720 feet but we did not find any oil in this well. We quit drilling on this well on April 4, 1911, and nothing has been done since.

I was also connected with the drilling of the well by the Scottish Oil Company on Sec. 20 of the same township in the Elk Hills. This well was started in November, 1910. We drilled to a depth of 4005 feet. At a depth of 1300 feet we got a blow-out of gas and at 2620 feet struck brackish water that flowed over the top of the well. We got no oil in this well but at a depth of 3500 feet there was apparently a color of oil on the water, although I am not positive of this depth. The well was then abandoned, the casing was

cut off, and pulled out. Some of it was sold and some of it is still on the ground.

The Hill Crest well I have been speaking of on Sec. 28 of T. [1558] 30-23 cost about \$38,000 or \$40,000, while the Scottish Oil Company's well on Sec. 20 of the same township cost about \$60,000.

The Redlands Oil Company about the same time drilled a well on Sec. 30, 30-23, 2850 feet deep. I had charge of the drilling of this well for two weeks of the time when they first put in the rotary drill. They found some gas at 520 feet in this well and at 1050 feet they got a color of oil. We thought at that time it might be a 25 barrel well but after it was bailed out it did not show up any oil at all. What we supposed was a color of oil must have been asphaltum and dry sand. We could not account for it in any other way. The well was tested to their satisfaction and showed that there was no oil there at that time. This well cost somewhere about \$45,000 or \$50,000.

I know of a well that was drilled by the Midway Pacific Oil Company on Sec. 32, 30-23 about that time to a depth of 2425 feet. I was acquainted with the superintendent of this well and we exchanged confidences and I visited the well sometimes. They had at one time what they thought was a small showing of oil but they afterwards concluded that it came from a new wire line they were using for drilling. I don't know whether it came from the formation of this line. We spent about \$45,000 on this well.

The Redlands well on Sec. 30 of this township has

been abandoned and the casing has been pulled. The Midway Pacific Oil well on Sec. 32 of the same township is standing just as they left it, except that they have moved some of the houses away.

I do not think that the Hill Crest well was started by my company as a result of any expert opinion, although my associates might have obtained such opinions without my knowledge. We did read the Arnold and Johnson Bulletin No. 406 and it made us think more of the Elk Hills than if we had not read it, but we had located before I saw the bulletin.

I was not connected with any other development in the Elk Hills [1559] but I saw the Associated Oil Company operating on Section 22, 24 and 26 in T. 30-23 and on Section 30, 30-24. I was there from time to time and saw them drilling. I saw oil produced in Secs. 26 and 30, I think, in the latter part of 1911. I have not been in the Elk Hills but once or twice since I left there in February, 1912.

CROSS-EXAMINATION OF JOHN LANG

The fact that the Government of the United States has withdrawn from entry the land in the Elk Hills has to some extent had something to do with our not doing anything further with out locations as it makes it doubtful whether or not we can get title to the land. The withdrawal, I think, has also had a tendency to discourage capital and has discouraged locators because of their inability to get capital interested. To my knowledge oil has been

discovered in the Elk Hills in Section 26, Township 30-23, and in Section 30, Township 30-24. Gas has been discovered in the Elk Hills in sections 32, 30, 20, 28 and 26, all in 30-23, and 30 in 30-24. Gas was discovered in the Redlands well on section 30, 30-23. At 1300 feet quite a bit of gas was discovered in this well and their rig burned down. They claimed that the gas was the cause of the rig burning down as there was a sufficient quantity to ignite and set fire to the rig and it burned down. The only wells in the Elk Hills that were drilled entirely with Standard tools were the Hill Crest and the Midway Pacific wells. The Scottish Oil Field Limited was drilled 1800 feet by standard tools. This was in section 20, township 30 south, Range 23 East. From 1800 feet down to 4055 feet they drilled with a rotary. The Redlands well from 1600 feet on drilled with a rotary. The Associated drilled some of their wells in part with the standard and finished with rotaries. The Associated well on section 26, Township 30 South, Range 23 East was started and completed with a [1560] rotary. In their well on Section 26, Township 30 South, Range 23 East, the Associated perforated their casings at about thirty one or thirty two hundred feet and they continued on down to 4035 feet and put in perforated pipe there.

Q. Have you any opinion as to whether that well would have made a better showing if it had been perforated at a higher point in the well?

A. From what I was told and from indications

that I saw when I passed around there, I thought there might have been oil at 2600.

Q. And from your understanding they did not perforate the casing at 2600?

A. No; I didn't hear of it, if they did.

Q. Now, this well which you referred to on Section 24 of 30-23, was that an Associated Oil Company's well?

A. Yes sir.

Q. What do you understand that well made?

Mr. Lewers: I object to that. You are calling for hearsay testimony that you are declaiming so loudly against.

Mr. Mills: This is your witness and I am asking some questions to find out what he knows. He gave hearsay testimony on direct testimony that I didn't object to.

Q. Did you hear of that well making 500 barrels a day?

A. I heard it did; yes.

Q. On Section 24?

A. Yes sir; that is, it started in with that.

Q. Now, that well on Section 30 of 30-24, how many barrels of oil a day did that make?

A. I couldn't tell you. I had no way of telling how much it made.

Q. Did you ever hear? You were around that country. Did you ever hear what that well made?

[1561]

Mr. Lewers: Objected to. I object to this hearsay testimony as not cross-examination.

A. I believe I have heard what it makes.

Q. By Mr. Mills: How much?

A. I have heard various stories about it. Some of them told me it made a hundred or more and others a good deal more than that. I never got nothing definite about it.

Q. By "a good deal more" how much do you mean?

A. Well, two or three hundred barrels a day.

Q. Do you know whether the Associated Oil Company ever shipped any oil through a by-pass from that well into the main pipe-line?

A. I do not.

Q. You don't know anything about that?

A. No sir.

Q. How many feet of oil-sand, to your knowledge, did the well on Section 24 of 30-23 pass through?

A. I don't know a thing about it.

Q. Did you ever hear how many feet of oil-sand?

A. No.

Q. Did you ever hear how many feet of oil-sand they passed through on Section 30 of 30-24?

A. About eleven feet, they told me.

Q: Is that the well in which you stated you had heard they had gotten several hundred barrels of oil a day?

A. Yes; I heard some different stories.

Q. Do you mean eleven feet?

A. Yes; eleven feet of sand.

Q. At what point?

A. At about 2700.

Q. From 2700 to what point?

A. It was about 2700. It might have been a little below or a little above, where they got the sand.
[1562]

Q. Did they perforate the casing at 2700 feet?

A. They perforated down there about where the oil came from.

Q. About 2700 feet, do you think?

A. Yes.

Q. And you heard that they got several hundred barrels a day?

A. Some of them claimed that it wasn't doing over a hundred, and others claimed that it was doing something like two or three hundred barrels. I didn't get anything definite on what was producing.

Q. Do you know a man named James McCay?

A. Only by hearsay.

Q. Do you know from what you know of him that he is employed by the Associated Oil Company?

A. No sir; I do not. I don't know whom he is employed by. To the best of my recollection he was a director. I believe I did hear him say something about working there, coming to think about it.

Q. Do you know anything about the Newman & Morris well?

A. Yes sir.

Q. Where is that located?

A. Section 26, 30-22.

Q. How far is that from the Elk Hills?

A. About a mile or a little over.

Q. Was that well to your knowledge tested out satisfactorily?

A. Well, no. I don't think it would be fairly tested unless you went down as much as 3500 feet. I think from what I have heard it was about 2900 feet.

Q. Have the Hill Crest people an opinion, so far as you know, at the present time, that they can get oil if they continue their operations there?

A. I don't know just exactly how you mean.

Q. Are they embarrassed from any other consideration? That [1563] is, were they embarrassed by the lack of capital?

A. Well, they are probably not getting the capital put up to go ahead with the work.

Q. They have strong hopes of making an oil property of that?

A. Well, they have some hopes. I couldn't say that they have strong hopes.

Q. And they have not given up the property at all? They still keep a watchman there?

A. Yes; they still keep a watchman there.

Q. Now, from your knowledge of oil drilling, you may state whether or not it is possible—I don't say probable—but is it possible for any company drilling in the Elk Hills to conceal the actual production

of their wells so that it would be difficult to ascertain just what the well is producing? *

A. If they had a motive to conceal it, they might.

Q. How could that production be concealed?

A. By not pumping a well, and various other ways, I suppose.

Q. Suppose, for example, the oil runs in the well at, say 2700 feet, and they put the pump at a few feet below the surface at the point where the oil rises in the well. Would that have a tendency to conceal the actual production of the well?

A. Certainly; it would reduce the production. If it filled in it would fill in slower than if you exhausted the head of the fluid.

Q. The higher up toward the surface of the oil in the well you place the pump the lower the production would probably be?

A. Yes; of course there would be a limit in that. But if you place it a little ways below the top of the oil, naturally you wouldn't get as much production because you would exhaust it through your pump.

Q. And the well would produce much more slowly than if you sunk the pump lower in the fluid?
[1564]

A. Yes.

Q. Suppose you put the pump at a point above the level of the oil. You would get no oil at all, even though the well was a producer?

A. Yes sir.

Mr. Lewers: I object to this as purely frivolous

speculation, and not cross-examination. If you have got anything of that kind, go after it by those that know this particular well. It is not fair to ask this witness about what he doesn't know about.

Mr. Mills: What well are you referring to?

Mr. Lewers: I suppose you have been all along referring to those wells of the Associated.

Mr. Mills: Don't let the shoe pinch you. I hadn't said "Associated well" to the witness. I don't know what you have on the subject.

Mr. Lewers: I have a lot more knowledge than you have, and I know there was nothing of that kind done there.

Q. By Mr. Mills: If one had a motive to conceal the actual production of a well and would proceed about it in the manner which I have described, would it be possible for an expert visiting that well to discover that fact without himself sinking a pump down to a point where the oil rises in the well?

A. No; it would not be possible to discover the depth of the tubing in the well, unless they saw it pulled.

Q. It could be effectually concealed, then, could it not?

A. Yes sir.

Q. In the Hill Crest well which you say is in Section 28, 30-23, that went to 1670 feet?

A. Yes sir.

Q. Has that well to your knowledge ever been thoroughly tested?

A. Only down as far as it went. [1565]

Q. That is, to the depth of 1670 feet?

A. Yes sir.

Q. Do you think they went deep enough to thoroughly test that well?

A. To test the well or the territory?

Q. The territory.

A. No, they did not, to my satisfaction.

Q. Now, take the Redlands well on Section 30, 30-23. Has that well, which you say went down to 2850 feet, been thoroughly tested?

A. No; there is a possibility of getting oil below there and be paying, anywhere from 3500 to 4000 feet.

Q. So, the fact that they went 2850 feet does not prove anything definitely about that being oil territory?

A. No; I wouldn't think so.

Q. Has the Midway Pacific, which I think you said was on Section 32, 30-23, ever been thoroughly tested?

A. No; not any more than the others have.

Q. That well, you said, went down 2425 feet about?

A. Yes sir.

Q. If that well was sunk deeper it would more thoroughly test that territory, would it not?

A. Yes sir.

Q. Is it your belief that if they go deeper they would have a prospect of striking oil?

A. They would have a chance.

Q. They quit too soon in those wells to thoroughly test it?

A. Yes sir.

Q. How long do you think it would take to test a well after they struck oil? How many days or weeks should they have a well on the gauge?

A. Wells vary so that it would be pretty hard to answer that offhand. A well ought to be pumped at least a month, I think; a [1566] month or six weeks.

Q. And if they pumped a month it would be a pretty fair test?

A. Yes; to find out if the well is producing oil or if it is in a right proper condition.

Q. Now, by the use of a rotary rig, Mr. Lang, I understand from the testimony that has been introduced here that they pump in a certain amount of mud or cement into—

A. Pumped in mud.

Q. And force it up around the casing?

A. Force it up around the outside of the drill-pipe.

Q. It has a tendency to hold the walls of earth away from the drill-pipe?

A. It has a tendency to keep it from caving in.

Q. And it also has a tendency, has it not, to mask the formation so as to conceal the oil-sand as you pass through it?

A. Well, they claim that they have, but I don't know positive that it has.

Q. That is to say, a rotary drill passing down through an oil-sand, by the pressure of this mud up against the walls may possibly conceal the fact that the rig has passed through an oil-sand?

A. There is a slight possibility; yes. But it would show a color on the surface—the water would show a color of the oil.

Q. In all cases does it show a color?

A. Yes, it couldn't hardly avoid it.

Q. Did it not, in all these wells in which the rotary rigs were used, show a color of oil, so far as you know?

A. So far as I know, except on the Redlands. I never heard them say that they got a color.

Q. The fact is, is it not, Mr. Lang, that the use of a rotary rig in drilling has more of a tendency to conceal the true formation through which you pass than the use of standard tools? [1567]

A. It certainly has.

Q. It is possible, is it not, that by the use of rotary rigs which were used, as you say, on a great many wells in the Elk Hills, for the operators to pass through oil-sands and not know it?

A. It is a possibility, yes; if they were not very thick. And what makes the possibility greater is drilling in the night and no one there but the drillers. Lots of times they don't notice it. They know when they go through something hard or soft. They can tell whether it is sand by the way the drill drops.

Q. And they do drill day and night?

A. Yes sir.

Q. From what you know of the Elk Hills, do you regard it as a prospective and possible oil territory?

A. Part of it; yes. Possible.

Q. And you know of certain discoveries both of oil and gas in different places in the Elk Hills?

A. Yes sir.

Q. Have those hills and value whatever for agricultural purposes, to your knowledge?

A. I wouldn't want to cultivate them.

Q. Why not?

A. I wouldn't consider them paying unless I had water on them.

Q. Why wouldn't they be paying?

A. They are pretty rough to cultivate. Part of them might be cultivated, as far as level is concerned, but with the rainfall it would not pay, unless a man could get water up there. I don't see any way to pay to cultivate.

Q. And considering the Elk Hills as a possible asset, have they, in your opinion, basing your answer on your experience in those hills and from your general observation and knowledge of agricultural conditions in that vicinity,—have those hills any [1568] value for any possibility of minerals they

A. Not outside of grazing.

Q. What value have they for grazing?

A. I couldn't state definitely. But in good years they have quite a bit of grass.

Q. For what length of time?

R. That is a hard question to answer direct, because there might be quite a bit of stock in there and eat it off pretty fast. Certainly, during the rainy season.

Q. How long does the rainy season last?

A. That differs.

Q. Isn't it a fact, Mr. Lang, that the grazing in the best years does not last over two or three months in the Elk Hills?

A. Do you mean that the grass was green or good?

Q. Yes.

A. It was more than that. About four months, I should judge.

Q. And the rest of the season it was dry?

A. Yes sir.

Q. And absolutely valueless except for the minerals that the hills contain?

A. Yes sir.

Q. The only real value that those hills have as a possible investment is for petroleum or other minerals that they contain?

A. Yes sir, or grazing.

Q. You would not give much for them as a grazing proposition?

A. Personally I would not.

REDIRECT EXAMINATION
OF JOHN LANG

By Mr. Lewers:

Q. Did I understand you to say that part of the Elk Hills you would regard as an oil possibility? [1569]

A. Yes.

Q. Would you put it any stronger than that?

A. No; I don't know that I could. I am only basing it on hearsay.

Q. And you put it merely as a possibility as to part of the hills?

A. Yes sir.

Q. What part of the hills?

A. The eastern end.

Q. Now, was it in the Scottish well, in Section 20, that they struck water?

A. Yes sir.

Q. And how much water did they strike?

A. Well, it flowed a little bit over the casing.

Q. Now, what did that indicate to you?

A. That water?

Q. Yes.

A. Well, I didn't have much hopes after we struck that water that we could get oil in there.

Q. And would you regard the territory where the Scottish is as oil territory?

A. No; not after that well was put down as deep as it was. There was a possibility, but I don't think it was—

I did not regard that territory where the Scottish well was as oil territory after the well went so deep but there was a possibility but I think it was remote. Now, as to the well on section 28 that went down 1670 feet, there was nothing discovered that indicated there was actually oil below that but I would like to have seen that well go deeper on account of the formation. Comparing that formation with other wells I would say the same thing of the Redlands well on section 30. I don't think anyone can

tell that there is oil below the surface except by drilling a hole. [1570]

I have studied the Elk Hills with a view to discovering where the anticlinal fold is. I don't know much about an anticline as I am not posted on geology or geological work as I stated, but I would consider the anti-cline in the Elk Hills as running nearly East and West, a little tendency to the Southeast. The anti-cline in my opinion is not very definite, that is so far as I know what an anticline means. I think it runs from the Northwest to the Southeast in a general direction. There are croppings of it which show from the Railroad crossing where the railroad goes down through the gap in section 14, a little East of McKittrick. I noticed the anticline fold there. I have been through the Northwest quarter of section 32, Township 30 South, Range 24 East but I never saw that blow-out or oil cropping there. In fact, I never looked it up, never looked for it when I was going through there. The Elk Hills, from the practical standpoint, show an uplift from the valley, a gentle uplift similar to the Buena Vista Hills and are also a little higher. The Buena Vista Hills have a very definite anti-cline but in other regards the hills are similar. I have observed the smashing up and breaking up of the hills near McKittrick where the asphaltum runs out and it shows considerable surface disturbance there and structural folds underneath. Now, comparing the Elk Hills with the McKittrick hills I would say that the Elk Hills are undisturbed by any physical evidence of the structural

fold. That they are undisturbed compared with the McKittrick anti-cline.

D. W. MADDUX, A WITNESS CALLED AND SWORN ON BEHALF of the defendants, testified as follows:

DIRECT EXAMINATION

I am a farmer in township 30-21 about five miles from McKittrick. I have lived there fourteen years and have been seven-[1571]teen years in the vicinity of McKittrick.

I was subpoenaed as a witness in this case last Spring and came to Los Angeles in response to that subpoena and remained here five or six days but was not called as a witness.

I am acquainted with a man by the name of E. C. Ryan and saw him in the early part of January, 1904, at McKittrick, and at my own place. At that time I was employed by him to pilot him over some land he was inspecting in the Elk Hills and also in Maricopa. I was employed by him in all at that time for seven days and as I remember it he paid me twenty-one dollars, at the rate of \$3.00 the day.

Of these seven days, five days I think were spent by us in the Elk Hills and the other two days on the road to and from the lands out east of Maricopa.

While I was in the Elk Hills with Mr. Ryan during these five days he was evidently inspecting the lands and we examined a number of odd sections. I remember that he was looking for the odd sections. We first found the corners so that we knew the locations

of the sections and then we went out across the section more or less each one of us. I did not know what he was doing as he never told me what his business was and I asked him no questions. The country was very badly broken up and we could not drive very much.

While this examination was going on we spent our nights in McKittrick, usually starting out in the morning about seven o'clock and reaching the hills about eight o'clock. We returned from the Hills somewhere between four and five o'clock in the afternoon. The last day we were in the Elk Hills we went over on the northeast side of the old canal where I found the corner of section one of township 30-23 as near as I can remember. All of the land we examined was in this township as I remember.

Most of the time we were in the Hills we went along the ridge [1572] and went down from this ridge to find the sections we were looking for and then would drive back up to the summit and would go east or southeast to find other corners.

We spent the entire days in the Hills as we took our lunch with us. When this work was completed I was paid twenty-one dollars in cash, as I remember it, and signed some sort of a paper which Mr. Ryan made out for me.

While I was in the Elk Hills I observed no mining work going on there of any kind. I saw location notices and all of the corners were covered with these notices. These notices dated back to 1900, 1901 and 1902.

CROSS-EXAMINATION

When Mr. Ryan came there in 1904 he was driven out to my place shortly after the first of January and I think that we drove from my ranch over to McKittrick on that day, but do not remember whether we made any part of the examination on that day or not. I do not remember the sections we went on but think that we went first along the township line on the west side.

It is not my recollection that we spent only two days in the Elk Hills. We were in there four or five days before we went to the other land in Maricopa.

On the last day when we went over by the canal we went into the foothills of the Elk Hills about two or three miles to the south from where we got our bearings on the canal and had to walk up into the foothills. I think there was something that he looked at on the flat.

That is the way it is in my mind, that I got \$21.00; that he allowed me \$3.00 a day; I wouldn't go for anything less. I was not paid for the team; the team belonged to the livery stable. The only way that I recollect that it was seven days is from the amount of money that I received. There was more than five days, but I am not absolutely sure about the seven days; there were two [1573] days of all the time that we spent that we went down near Maricopa—one day going down and one coming back. If it should appear that we only spent five days altogether, then I only spent two days going up into the Elk Hills, but

I am pretty sure that we were there three or four days.

Mr. Ryan did not tell me that he was looking for oil derricks and the only information that he gave me was that his business was to inspect the odd sections or railroad sections. Mr. Ryan frequently got out of the buggy while we were in the Hills and we walked to some of the corners that we could not drive to.

I do not know that Mr. Ryan looked for oil sands or seepages while we were in the Hills. I was looking for them myself because sometimes I located oil lands.

REDIRECT EXAMINATION

Mr. Ryan did not mention derricks to me and made no remark that I can remember about there being no improvements on the land or that he was looking for derricks or anything else.

H. H. McCLINTOCK, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

I live at Bakersfield and am a superintendent of oil properties. I have been connected with the oil business since 1904 and am now connected with the Northern Exploration Company and the Southern California Gas Company. From 1904 to 1910 I was employed by the Standard Oil Company as superintendent of their gathering system which includes all survey work, building up new fields, laying and gathering lines and purchasing oil from the various producing companies. From 1906 to 1910 I was in the

Kern County district, mostly in the Midway and McKittrick fields or what is known as the West Side.

I am familiar with the Elk Hills as I surveyed a part of that country in 1904 and from that time until 1910. Most of my work was in townships 31-24 and 30-24, although I have done some [1574] work in 30-23. In 1904 I ran a preliminary survey in the first two townships mentioned for the purpose of putting in a pipe-line into the Midway District which we eventually did in 1907.

I did not make any special examination of the Elk Hills in 1904 but drove through there occasionally on my way to Buttonwillow. At that time there was nothing at all going on in the Elk Hills. There were probably locations in there but so far as I observed they were abandoned. There was no drilling going on there. The first drilling to my knowledge started in the spring of 1908 on either Section 2 or Section 11 of township 31-24.

From 1904 up to 1909 the Elk Hills were not considered by oil men to be oil land. I was in touch with all the oil men in the district at that time and never heard the Elk Hills discussed as oil land prior to 1909.

In 1904 the oil was supposed to begin down near Pioneer in the vicinity of the old Jewett & Blodgett locations. There was some oil in 30-22 in the old McKittrick field and there had been one or two indications on what is known as the Spellacy anticlines in section 30 of township 32-24.

The first actual drilling operations in the Elk Hills

in township 30-23 commenced in 1909. People went in there at that time because it had been discovered that the oil extended farther out in the Midway than had been supposed. A number of big wells were brought in there and this created a demand for oil lands throughout the entire district and everybody got excited so that if you had land located almost anywhere you could sell it or do something with it. Owing to the fact that the land in this vicinity was tied up, people rushed out into the Elk Hills and started to build derricks and to drill.

I was last in the Elk Hills yesterday when I drove through sections 11 and 13 of township 31-23 and on to sections 6, 9 and 12 of township 31-24. There was no work going on there, [1575] but occasionally we would find some junk man in there hauling out material.

About six weeks ago I was in township 30-23 in the Elk Hills with Mr. Latham, geologist for the Kern County Water Commission. At that time everything in there was absolutely dead and shut down as far as we could see. I passed several of the leases and things were at a standstill. In most places the watchmen even were withdrawn and work had been abandoned.

On this visit with Mr. Latham we went to the Spreckels property on section 16 of township 30-22. That was abandoned. We then went to the property of the Scottish Oil Company in township 30-23 and to the properties of four or five other companies.

Everything was shut down and in some cases everything had been moved away that could be moved.

In my opinion the Elk Hills cannot be considered as oil land at the present time. I say this because I have personal knowledge of wells as deep as 4600 feet that are apparently barren and it does not look as if there was much chance below that depth because we do not know how to go much deeper. A well 4,000 feet deep in that territory would cost about \$60,000 without counting the cost of water and fuel lines.

A pioneer well there would cost not less than \$15 per foot.

Cross-Examination.

I do not know of any discovery of oil or gas in the Elk Hills in paying quantities. During one of my visits to an oil company in township 30-23 while I was employed by the California Natural Gas Company laying gas lines throughout that district, I noticed more or less gas coming out of a well that was being drilled but they didn't have enough gas to do their own work and we sold gas to them.

The development in the Elk Hills started prior to the [1576] withdrawal order of September 27, 1909, and this order did not retard the activity of any of the companies that were operating at that time in the Elk Hills. There were many thousands of dollars put into that country after the order was made and they kept on going until the drills couldn't go any further.

The cessation of work in the Elk Hills is not due to financial difficulties because some of the companies

that put their money in that district are also putting money in other places and have plenty for that purpose. But they are putting no more money in the Elk Hills.

A. T. LIGHTNER, seventeenth witness for defendants, Los Angeles.

Direct Examination.

My home is in Bakersfield where I have lived since 1875. During that time I have been county clerk, recorder, assessor and also a deputy in nearly every office in the county except that of Treasurer. At present I am engaged in taking care of Government land matters such as contests in the United States Land Office and preparing papers in any class of Government entries. I am also engaged in doing a great variety of other things, for instance, I am inheritance Tax Appraiser for Kern County under appointment by the State Comptroller and am frequently appointed by the court as a Referee.

I have heard of the Elk Hills and of locations made in there but all I know about them is from the records as I have not been there to see the notices posted. In 1903 I think it was, I was associated with a man by the name of George E. Brown in preparing notices of locations and locating lands not previously located or those on which the locations had lapsed.

I became acquainted with Brown through the fact that I had been interested in some locations north of McKittrick. Brown came to me with a suggested plan of locating up lands that appeared [1577] to be free from locations on the record and inducing

various people to employ him to go on these lands and make locations on them for oil with the expectation that he would receive some payment for his services in doing so. My duties in this connection were to look up the records and ascertain what lands were free to locate. He charged each of the people who went into these locations \$20 and went on the ground himself with such assistants as he needed and made the locations, putting up the names of the various people who had gone in on the plan. After that the location notices were put on record. We made no investigation whatever to determine whether the lands located were oil lands or not and the locations were made largely as a speculation, although we endeavored to locate them as near to producing territory as we could find open land. Brown was not an oil man, although he had some general knowledge on the subject and I do not think he knew anything about geology.

A great many people who went in on this arrangement had authorized Brown to make the locations for them. He had a great many of the county officials on his list. There were a few oil men such as Tim Spelacy, but most of these locators were men who were engaged in other lines of business.

There was no work done by Brown or any of these people on any of these locations. I have talked with most of these people and I found that none of them had ever seen the lands and did not know anything about them.

Most of these locations that were made in 1903 were

made in townships 30-23, 31-23 and 31-24 and possibly some in township 30-24.

The discovery of oil in the Kern River Field was made in the latter part of 1898 or the early part of 1899. The excitement of this discovery caused locations to be made in all parts of the country where there were any signs of oil. These locations [1578] covered a very extensive country but by 1903 they had begun to lag somewhat. At that time interest was revived and Brown conceived the idea of making a little money for himself and so evolved the plan I have spoken of.

At the time we made these locations in the Elk Hills we did not do so because we considered that the territory was oil land. We had no opinion as to its oil value, other than we were locating any land that was unlocated thinking that it might be a speculative proposition, and thinking that we might strike some oil land. We didn't know whether it was oil land or not. We thought any land above the flat and lying west of the flat in that country, or the valley pointing towards McKittrick might be classed as having some speculative value for oil. That is all we knew about it.

Cross-Examination.

My part of this location scheme was to look up the records and assist Brown in finding lands that were open for location. We selected townships where there were vacant tracts.

E. S. GRAHAM

Eighteenth Witness for Defendants. Los Angeles.

December 12, 1912.

Direct Examination.

I live at Redlands, California, and am engaged in the real estate and brokerage business.

I am one of the directors of the Redlands Oil Company which operated in Sec. 30, 30-23 in the Elk Hills. This company was incorporated a little over two years ago, and Mr. Ralph Arnold, the geologist connected with the United States Geological Survey at one time, was one of the incorporators.

I was on the property of this company in the Elk Hills on two occasions a little over a year ago while we were drilling. We drilled to a depth of 2850 feet but did not find any oil. We [1579] spent about \$60,000 in drilling this well. Nothing is being done with it now. The work was discontinued and the property abandoned and the company dissolved, and what little was left in the treasury of the original subscriptions was returned to the stockholders. We stopped work because it could not be carried on profitably. From the reports we had from the surrounding territory of wells that went deeper than we did and gave it up, we thought it was unprofitable commercially. We did not think it was best to go ahead and develop.

The people connected with this company were financially able to go ahead if they desired, for several of them were wealthy men. The only reason we discontinued work was because of our failure to find oil. Everything connected with the well that was saleable was disposed of and after deducting what we received in this way the net cost of the well was

about \$60,000. We did not sell the claim but allowed it to lapse.

As the result of what Mr. Arnold told us, we thought we would strike oil at 1800 feet.

Cross-Examination.

I am not a practical oil man. There might be great quantities of oil below the point where we stopped drilling, but we did not think it would pay to go deeper. I think we were unanimous that we had gone as far as we were justified in going. The log of the well might have shown some traces of oil. I do not know about this. There was some gas shown but I don't know that there was any oil. I never heard that the Redlands well had been known as a 25-barrels-a-day well, but wish I had known that.

All I know about the surrounding territory is from the reports we received concerning the drilling carried on by others. The directors accepted the reports we got from our superintendent concerning the Scottish well, which was put down about 4,000 feet, and that was one of the influences that discouraged us from going ahead. [1580]

We were not influenced by the withdrawal order of September, 1909. That matter was discussed but we were of the opinion that we were safe in going ahead in making our development. We left the question of the effect of this withdrawal to our legal adviser and were told it was all right to go ahead. If we had not thought so we would not have put so much money in the development. This withdrawal order had nothing to do with our quitting work over there.

JAMES A. OGDEN

Nineteenth Witness for Defendants. Los Angeles.

December 12, 1912.

Direct Examination.

I live at Bakersfield, California, and am superintendent of the Kern County ranches belonging to Miller & Lux, and have been such for eighteen years, and have lived at Buttonwillow and Bakersfield during the whole of that time. I am familiar with the Elk Hills which lie directly south of Buttonwillow.

I was first in the Elk Hills about 1895 and have been traveling over them from time to time during the eighteen years I have been in that country looking after stock and feed, etc. We leased this land from the Southern Pacific Railroad Company with the exception of two years ever since they have had it, for grazing cattle and sheep. The feed in the Elk Hills depends a great deal upon the seasons but in the Spring of the year we almost always have feed and practically the year around, there was more or less feed in that country. There is a good deal of Foxtail and grass we call bronco grass and some alfileria, which furnishes feed for cattle and sheep.

I had some locations at one time in the Elk Hills. Some of the men on the ranch went out and located this land and my name was used by them in these locations. I did not make the locations myself and was not on the ground when they were made. [1581] I probably knew at the time where they were but I am not able to say now. One of the men who made these locations was a man by the name of Meaves who

was the railroad agent at Buttonwillow. We did nothing with these locations. I think I put up a few dollars to pay the expenses of recording the notices but that is all.

At the time when these locations were made, I cannot say that I considered the Elk Hills to be oil land, as I thought very little about it. I was not an oil man and the other men simply used my name and I let it go at that. None of these locators were oil men, as far as I know, but they were all greenhorns in that business.

At that time I had not heard any oil men discuss the Elk Hills as possible oil land but there were a great many people going in and locating land there. They put up no derricks and the only work done was to dig a hole here and there or fix a crossing to allow a wagon to go over a gulch. The first actual development work in the Elk Hills began about three or four years ago. Two years ago there were a number of rigs working in there but at the present time there is not one.

Cross-Examination.

The records show a number of locations in the Elk Hills in which my name appears, but I never put up any money in connection with those claims, except possibly for the filing of the notices of location.

At this time the lands in the Elk Hills are under lease to Ardizzi and Olcese but we exchanged land with them so that we had the use of the Elk Hills. They paid seven and one-half cents an acre per year for the grazing privilege in the Elk Hills. Under

the arrangement we have with them, we give them the use of 1,000 acres around the borders of Buena Vista Lake with the water privilege, in return for our right to use about twelve or fifteen thousand acres of land in the Elk Hills for grazing purposes. [1582]

There is grass practically the year around in the Elk Hills, but Miller & Lux control the only water in that vicinity and the lands are not valuable for grazing without water. [1583]

M. H. WHITTIER, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

My home is in Los Angeles and I am engaged in the oil business and have been for about twenty-three years, principally in California and the Indian Territory. I have business interests in practically all of the oil fields. I learned the old business first as a laborer and have followed it right along. I am now vice president of the Bellridge Oil Company and am a director of the Associated Oil Company and connected with other companies and have properties of my own at different places, and am actively engaged in the production of oil.

I am familiar with what are known as the West Side Oil fields, including McKittrick and Midway. I first went into that country in 1899, and since that time have kept in touch with what was going on there.

From the time I went in there up to 1905 the production in that field was along a narrow strip through

there. Our experience was limited in those days but we have broadened out a great deal and learned that oil can be found were we did not expect to find it.

Up to 1905, there may have been some people who considered the Elk Hills as oil land, but I was not particularly interested in them and never have been. The Associated Oil Company with which I am connected, acquired interests there in recent years, but I never thought of it as an oil country. I have been interested in acquiring new property for myself since 1899, and have drilled many wildcat wells since that time in various places.

I have been on the property of the Associated Oil Company in the Elk Hills while they were drilling there. I am not as active with the company as I used to be but I went out there [1584] where they worked to see how things looked. The first time I was there they had found a little oil which, I think, was the reason I went out there. If I remember rightly they were down to a depth of 4,000 feet.

From the work that we have done there and the expense we have gone to and the small amount of oil we got, I hardly think we would now consider the Elk Hills or any portion of them as oil territory. There was a time that people, during the excitement, thought that was oil territory, and the Associated went in there by the advice of very good people, but I think they are kind of sick of it. My opinion about it is that they made a mistake. I do not know how they feel about it as a company, but in my personal judgment I don't think very much of it.

CROSS-EXAMINATION

of

M. H. WHITTIER.

I became a director in the Associated Company in 1902 or 1903. The Southern Pacific Company obtained a stock control of the Associated Oil Company in October, 1908, but did not take control of the board of directors until 1910. At that time I went off the Board of Directors. I went back on the Board of Directors in the fall of 1911 and am still a Director of the Associated Oil Company. The Associated Oil Company has a capital stock of 400,000 shares. I own over 10,000 shares of the capital stock of the Associated Oil Company. These shares have a par value of \$100, and their market value ranges from \$40 to \$45 per share.

I never did visit the Elk Hills particularly. I have been over there but I never did make an examination of them for oil. I am not a geologist and never made a geological reconnaissance of any portion of the Elk Hills at any time.

I never visited the Elk Hills until recent years, but [1585] I have known the West Side country as well as the average man for the last fourteen years. I will not say under oath that the Elk Hills are not oil lands, and I do not think there is any man under oath who can tell what are oil lands until he has drilled for it. We found oil sometimes where we did not expect to, but as to the general conditions there, I never took very favorably to that country.

That would not mean that it was not oil territory particularly.

There are other places that I would rather go to than the Elk Hills, as they are one of the expensive places to operate. What we look for is a place where we can get returns from our work.

The Associated Oil Company employs geologists but they make mistakes. For instance, they turned down the property on which the Bellridge Oil Company is now working. I do not think that the geologists have helped us out much in that field. I don't think that the Associated Oil Company have abandoned any of its property in the Elk Hills by what I understand as abandoned.

REDIRECT EXAMINATION

of

M. H. WHITTIER.

I think that the Associated Oil Company made a mistake in going into the Elk Hills. We have bought a great deal of land in the Lost Hills and paid quite a sum for it, and I think in the Elk Hills also. We spent a large amount of money there and have not received the results that we should have from the wells we drilled. This company, as well as other large companies in the field occasionally takes a gambling chance on new territory.

I have had about 23 years of practical experience in the oil fields. I started in Ventura County, went from there to the Los Angeles field and help open it up. I went from [1586] there to Coalinga and did considerable work there. After that I was in the

Kern River field and then became acquainted with the McKittrick districts. I was one of the pioneers in the Kern River field and later in the McKittrick field and also in the present Bell ridge field. Prior to 1905 I lived in Los Angeles but was in the West Side fields very frequently and during all of this time kept in touch with the work that was going on, but I never heard the Elk Hills being discussed as oil territory by any oil man.

I am not aware of anything at this time that would attract me to the Elk Hills and I would not advise any man to invest money in the Elk Hills on the chance of finding oil in commercial quantities. On account of the work that has been done there I would not even advise him to take a gambler's chance on it. My opinion is based altogether on the work that has been done there, which I think is not very encouraging.

RE-CROSS EXAMINATION of

M. H. WHITTIER.

The Associated Oil Company has discovered oil in the Elk Hills. I am not willing to condemn the Elk Hills as a commercially profitable territory on the work that has been done there. In fact, I don't know anything personally about it except I have my own views. I don't think anybody can swear that there is no oil in the ground. [1587]

EUGENE OVERTON, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I am an attorney, and am a member of the firm of Chase, Overton & Lyman. In 1910 I was a member of the firm of Lee, Chase, Overton & Valentine, which firm represented the Buena Vista Land & Development Company at that time. In connection with a contest that this Company had concerning some lands in the Buena Vista Hills in Kern County, Dr. J. C. Branner of Stanford University was employed to make an examination of these lands, and on October 18, 1910, we received a written report from him showing the results of his examination. I have been unable to find the original of this report but recently wrote to Dr. Branner and obtained a copy which I now produce.

Said copy was thereupon produced in evidence as Defendants' Exhibit 5, and reads as follows:

“(COPY)

Stanford University, Cal.

Oct. 18, 1910.

Lee, Chase, Overton & Valentine,

Los Angeles Trust Building,

Los Angeles, Cal.

Gentlemen:—

I have examined the lands in and about the Buena Vista Hills near the town of Taft in this state, which are indicated on the accompanying outline map, namely: 32 south, 24 east, section 2 (all but the south-east quarter), section 4, section 6, section 8, section 12, the south half of section 14, and section 20.

This examination was made for the purpose of de-

termining whether or not there are on the sections mentioned indications of valuable minerals in paying quantities. In order that nothing of importance should escape me, I personally went over each of the [1588] tracts mentioned, examining the exposures along gullies, and roadsides, and following the land lines along the routes indicated on the accompanying map. In addition to these examinations of the lands in question I kept a constant lookout for geologic evidences that might appear on the adjoining lands and that might throw light upon the geology of these particular sections.

The fresh water origin of the formations exposed over the surface.—The geologic formations exposed over the sections mentioned are everywhere the same with slight local variations. They are composed of sands, gravels, clays, and boulders, the gravels and boulders all being more or less waterworn. The bedding and waterwearing of the materials show that they were deposited in water, and the finding of the fragments of Unios or fresh-water clam shells at several places, especially on section 2 along the north and west sides, on section 12 at and about the northwest corner, and on section 14, near the middle of the east side, show that *these deposits were laid down in a body of fresh water.*

Under ordinary circumstances deposits of fresh water origin may contain important placer deposits of gold, tin, or diamonds, but nothing was seen that would lead me to suspect the presence of any of

these or of any other minerals, with the exception of small quantities of gypsum.

Gypsum.—Small patches of gypsum were seen at several places, but none of these gypsum deposits have any commercial value either immediate or remote. The nature and origin of the formations of which the gypsum is a part preclude the possibility of the deposits being large or more than small local patches of no importance. A chemical examination of two specimens of the gypsum taken by me on section 10 show the material to contain 73.86 per cent. of gypsum.

Indications of oil.—Epecial effort was made to [1589] find indications of the presence of petroleum on these lands. Seepages of petroleum and beds of asphaltum were looked for on all of the sections in question, but none was found.

Old oil seepages, however, are known and were seen on one of the adjoining sections (section 11).

The question arises whether a seepage of oil on section 11 could be considered geologic evidence of the existence of petroleum on section 12 or on any other section involved.

As a conservative geologist I hesitate to express an opinion on this subject without more evidence than these seepages afford. I have seen enormous asphaltum deposits where no oil could be found by deep wells put down in the most favorable localities in the vicinity.

Seepages and asphaltum deposits cannot there-

fore be regarded as unquestionable evidence of the existence of petroleum in the adjoining sections.

Evidence from outside of the Buena Vista Hills.—In spite of the absence of direct evidence to be found in the geologic formations on the lands in question, a study of the broad features of the geology of the southern end of the San Joaquin Valley leads me to the conclusion that these lands probably do have oil beneath them. The features referred to are the existence of an enormous thickness of oil producing shales along the west side of the San Joaquin Valley, the association with these shales of porous sedimentary deposits, and the folds beneath and along which oil and gas usually accumulate.

If oil had not been found, however, in the region south and west of the Buena Vista Hills a geologist would have been very bold indeed who would have ventured to predict the existence of petroleum in the Buena Vista Hills themselves.

Very truly yours,

(J. Signed)

J. C. Branner

Consulting Geologist." [1590]

Mr. Mills—Let me ask Counsel whether this letter which has been marked as Exhibit 5 is intended in any way as an impeachment of the testimony of Doctor Branner?

Mr. Lewers—I wouldn't say that, Mr. Mills, because I don't think Doctor Branner is a man that is open to impeachment. But it is explanatory of the testimony given by him about the particular territory referred to in this letter.

CROSS-EXAMINATION
of
EUGENE OVERTON.

The Buena Vista Land & Development Company obtained its title through indemnity state selections.

A rehearing has been asked for in this case. The Honolulu Oil Company had made a contest against the state selection made by our company upon one of the quarter sections and in March, 1912, I was served with a notice of motion which was to be made before the Secretary of the Interior on April 4th by the Honolulu Consolidated Oil Company, the effect of which was to ask for the cancellation of the state selection of the Southwest quarter of section 4. It has not yet been decided. The Honolulu Consolidated Oil Company is the successor in interest of the mineral locators on sections 2, 4, 6, 8, 12, 14 of township 32 South, Range 24 East and a quarter of section 10 in the same township and range. They are endeavoring to obtain the title on mineral locations but in order to do that they have to get the state locations out of the way first. I believe their object in initiating these contests against the state selections was for the purpose of acquiring the title because of the mineral or petroleum bearing character of the lands affected, which I have described. [1591]

JOHN A. POLLARD, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

My home is in Bakersfield, California. I am a su-

perintendent of drilling and also a drilling contractor and have been engaged in the oil business about 16 years in California, Texas, Louisiana and Old Mexico.

I first went into the West Side fields in Kern County about three years ago, at which time I went to the Buena Vista Hills, to the property of the Honolulu Consolidated Oil Company in township 32-24. I went to work for this company in October, 1909. This company was then drilling a well on section 10 of township 32-24 which had reached a depth of about 1600 feet, and was producing about twelve million cubic feet of gas per day. They were unable to cope with this gas with the methods they were using and I was employed to see what I could do with it. I succeeded in stopping the gas pressure so as to enable us to proceed with the work and drill the well further down and made the first discovery of oil that was made in that section of the country. This discovery was made on February 2, 1910.

The immediate result of this discovery was a considerable commotion in that Section of the country and to the north and west particularly. The next morning after the discovery I, with my field glasses could see that there was great activity across the valley to the north and the teams were hurrying in there with tents and provisions and material preparatory to building camps and drilling wells. This extended almost entirely across the south portion of the Elk Hills.

After that time I was over in the Elk Hills myself

as I was particularly interested in that section of the country. I did not visit any particular property but visited the whole country in general. I was at the Kinsey well and on properties operated by the Hart Oil Company, Associated Oil Company and several others [1592] whose names I do not remember at this time.

Those wells were all situated in the Elk Hills. It would be impossible to state the number of times that I have been over there between 1910 and January 1st, 1912, but my attention was attracted towards that section of the country on account of seeing the vast development that was going on since the discovery of oil on the property which I was occupying.

I was last in the Elk Hills in 1912 at which time there was very little going on there. There had been considerable development prior to that but when I was there very little was being done. I think the Associated Oil Company was drilling at that time.

As a result of my experience in the oil business and upon my knowledge of the Elk Hills country and the Buena Vista Hills and the surrounding country and my observation of what has taken place there, I would not advise a man who had capital to invest in the Elk Hills with the hope of finding oil in paying quantities. Oil men generally disregard the Elk Hills and think that it is not oil bearing territory.

I am familiar with the general opinion concerning the Elk Hills and I have confidence in the men who drilled wells there and from my own knowledge I

would not want to invest any of my own money in that locality.

In speaking of the Elk Hills as not being oil territory I did not include the territory where the Associated Oil wells are situated. I have no particular knowledge of the amount of oil that has been produced there and think that perhaps that territory might be commercial, but it would not be a very paying commercial proposition and according to my recollection I don't think they have produced more than 150 barrels a day and I don't know that they have shipped out any at all.

We have not found that the oil is persistent over the [1593] territory in the Buena Vista Hills. There have been many dry holes drilled which prove this. On section 18 of township 32-25 a well has drilled 5,000 feet deep and made no discovery of oil, although they had some gas. On section 2 of township 32-24 they drilled over 4,000 feet and no discovery of oil has yet been made. On section 22 of township 32-24 a well has been drilled 3200 feet deep and no discovery of oil made.

According to my observation and experience it is a very common thing to find that oil-sand cropping at one place will not be encountered by wells drilled at some distance from that place. Such instances are very numerous and have been revealed in the Buena Vista Hills by the wells I have referred to. It frequently happens that oil may be found at one place in a particular formation and a short distance away oil will be found in another well in a different forma-

tion without there being anything on the surface to indicate a change.

I am now engaged in conjunction with Mr. Ralph Arnold, geologist, in preparing a paper on the conservation of hydrocarbons and light oils, which work is being done under the direction of Dr. Holmes of the Government Bureau of Mines.

There are anticlines to my knowledge in the Buena Vista Hills. We have one that started on section 5, Township 32, South, Range 24 East, and it runs in a Southeasterly direction across township 32-24 and there is an anticline that runs almost at right angles with this one and goes across the SP of 11 in the same Township at almost right angles. If there are any others in that township I don't know of them.

CROSS-EXAMINATION

of

JOHN A. POLLARD.

I believe that the well I referred to in the Elk Horn valley as being the most Easterly well is known as the Boston [1594] Pacific and is located on section 32, Township 31 South, Range 24 East. If that well is producing oil I don't know it. Some of the wells in the Elk Hills have been drilled by rotaries and some by standard tools. In using a rotary if the head of the well using the rotary is not connected by means of a "T" to the outside of the derrick you might probably pass through oil and not discover it. I believe that the Pyramid well has an immense gas pressure from the 3500 foot level down. I know as a driller for the Honolulu Oil Company that within

one and a half miles of the Pyramid that there are two good wells in section 12, township 32 South, Range 24 East, which are owned and operated by the Honolulu Consolidated Oil Company. I drilled one of those wells. I didn't mention this in my direct examination because I didn't see any need of it. I heard Mr. Overton's testimony in which he said that the Register at Visalia had decided on section 12, Township 32 South, Range 24 East, in favor of the state selection and against the oil claimants and I know as a matter of fact that there are several wells on that very section producing petroleum today. If I testified that on section 2, Township 32 South, Range 24 East they had drilled a dry hole it was a mistake. What I intended to say was that they are now drilling on Section 2 but have not yet gone into the oil stratum. I was up in that township about sixty days ago and there is one good well on section 11 and one on section 10, both within a mile and a half of the wells on section 2. There are also good wells within a mile and a half of this well on section 2, section 4 and section 12. Within a mile of section 2 that I have mentioned there was a well brought in by the Honolulu Company on section 10 which produces twelve million cubic feet of gas a day and also produces one hundred barrels of oil a day. All the dry holes that I have mentioned are situated on the flank of the Buena Vista Hills or out in the flat. I do not pretend to be an expert on anticlinal axes. I confine my activities to drilling [1595] and getting the oil out of the ground. I am no longer in the

employ of the Honolulu Consolidated Oil Company. Jack Whaley succeeded me as superintendent. I don't think I should be compelled to tell why I left the Company and I refuse to tell unless I am ordered by the Court to do so.

CHARLES H. ALLISON, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I live at Glendale in Los Angeles County, California. My business is that of expert well shooting. In other words I am a dynamiter. I am a member of the firm of Allison & Berry and we carry on our operations in all the oil fields of the state.

I have been in California since 1895, and have been in what are known as the West Side fields in Kern County. I first went to those fields in 1900 when I made a trip to section 22 of township 32-23 to what is known as the Bay City oil property. At that time I was selling oil well supplies for the R. H. Herron Company of Los Angeles. I was connected with this company as a salesman in that territory from early in 1900 up to April, 1903. At that time I went into business for myself renting oil well fish tools with my headquarters at Bakersfield. I continued to cover the Kern River, Sunset, Midway and McKittrick fields, going in there on an average of perhaps twice a month.

From 1900 up to 1905 I was familiar with all of the oil development that had been carried on in the

West Side fields. At McKittrick the development was near what we called Olig Station a mile or two from McKittrick.

I am familiar with the Elk Hills and have been through them a great deal. My name appears upon some locations that were [1596] made there on January 1, 1901, together with the names of R. S. Ashton, Fred Kugler and others. We did nothing with these locations but allowed them to lapse.

In 1903 or 1904 I sold some pipe to Frank Lowe, Hoy and others who were drilling for oil near Buena Vista Lake in the vicinity of section 12 of township 30-24.

I have recently had occasion to go into the Elk Hills a number of times in connection with my business of well shooting. We dynamite wells for various purposes. Sometimes we are called on to dynamite casing when it is desired to pull it out and to abandon the well and we also do it for various other purposes.

On December 13, 1911, we shot off the casing of the Green and Hutchinson well in section 4 of township 31-24 for the purpose of pulling the casing out of the well and abandoning the well. There was no showing of oil at that well at the time we were there.

In October, 1911, we shot off the casing in the Scottish well in section 20 of township 30-23 so that it could be pulled out and the well abandoned. We also shot off the casing in the Hart well in section 13 of township 31-23; the Standard Oil Company well in section 16 of township 31-23 on December 3, 1912, at

a depth of 3162 feet; and a well for Lindeman & Howk in section 4 of township 31-24.

CROSS-EXAMINATION

of

CHARLES H. ALLISON.

I know that these wells were being abandoned because I am a practical man and know that the owner of a well is not going to shoot off one string of pipe after another in a well that has cost twenty-five or thirty thousand dollars unless he [1597] intends to abandon it.

My opinion is not based on any personal knowledge, certainly not, it is based upon hearsay and my judgment of the surrounding facts. I have no personal knowledge of the ultimate intent of the parties that employed me to shoot these wells and that is true as to all that I mentioned.

I did not believe in these locations in which my name appeared in the Elk Hills enough to put any money in them, although I did contribute toward the expense of recording the notices.

I saw specimens of sands taken from the side hills and from the gulches and the canyons from the outcroppings in Township 30 South, Range 23 East and believed in the mineral and oil character of the land as prospects and I contributed money to set up the stakes and give notice of our claims upon the ground. Several of my co-locators went out on the land and placed the location notices and after examining the land they returned and brought with them and showed me numerous specimens of bituminous rock

and a mixture of that rock and asphaltum which when a match was applied burned indefinitely. I knew Mr. J. B. Treadwell. He was in charge of the drilling and oil operations of the Southern Pacific Company out in the West Side fields. From my knowledge of Mr. Treadwell's operations I do not think that the selection of oil lands for the Southern Pacific Company or the Southern Pacific Railroad Company, was left so much to the discretion of Mr. Treadwell as it was to Mr. Josiah Owen and Mr. E. T. Dumble. I know that in 1901, '2 and '3 that they were examining lands in and around McKittrick to determine the oil possibilities of those lands. I know E. T. Hoy, Dan Hoy, Frank Lowe and a man by the name of Bone and one by the name of Cochran. They were all interested in what was known as the Western Union Oil and Development Company and they had their offices at Bakersfield. I know that in 1902 that they [1598] sunk a well near the section corner common to sections 1, 2, 11 and 12 of Township 30 South, Range 24 East. That they went about 1000 feet and secured some gas. I supplied them with two strings of casing for that well, also with a gas heading to retain and hold that gas and they connected up the gas with a range and used the gas for cooking and heating purposes. They had some financial troubles just about that time and their finances becoming exhausted they quit work there. This well is on the South slope near the East end of the Elk Hills. At the time that these parties quit work on that well they owed me some money and the casing was pulled to

help pay debts. In my trips into the Elk Hills since I located there I have seen out-croppings of asphaltum and bituminous rock similar to the samples that were shown to me in Bakersfield by my co-locators. [1599]

C. H. MEVES, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I am agent for Wells Fargo & Company at McKittrick and have been living there for about five years. At one time I lived at Buttonwillow. I was agent of the Southern Pacific Company at that place from 1893 until 1905. I knew all of the men around Buttonwillow who were working for Miller & Lux. At the end of 1899 or early in 1900 together with some of the employees of Miller & Lux, I rode out into the Elk Hills and made some locations. Nothing else was done with these locations as we figured we could hold the land and if there was anything in them we would have a chance to get in on it and if they were of no value we were not out much.

Shortly before we made these locations there had been an oil excitement in the Kern River and McKittrick fields and that led us to take this land up in the hope that it might prove to be all right at some time. In making these locations we looked for shale on top of the ground. We were greenhorns and had been told that if we found shale we would probably find oil. We did find some shale and we made the locations because of this discovery and because the land was

vacant. None of the men who were in on these locations were oil men.

In the next year I think we took up some land back of Carneros Springs about 30 miles northwest of McKittrick. We did some assessment work on the claims at that place and I think we spent three or four hundred dollars but we never did any drilling. We never did any assessment work, however, in the Elk Hills. I never went back there to make any locations but the others may have done so.

The recent excitement in the Elk Hills began about three years ago but there is no excitement there now and things are very quiet. The general impression amongst oil men and [1600] others at McKittrick is that the Elk Hills territory is no good for oil.

CROSS EXAMINATION OF C. H. MEVES.

I was located at Buttonwillow for eleven or twelve years and continued to work for the Southern Pacific Company at that place and other places until 1909 or 1910.

About the year 1900 while I was agent at Buttonwillow I used to see Mr. J. B. Treadwell, the Southern Pacific oil man, around there. It seems to me that he was around there for six months or a year. They didn't have any daily trains from Buttonwillow to Asphalto and he used to come on one of the railroad motorcycles and he used to frequently stop at Buttonwillow. After they put the regular daily run on I didn't see him so often; once in a while would see

him when he passed through. He was employed at that time by the Southern Pacific Company looking after their oil lands at and around McKittrick and the West side field and he was also examining lands for their oil possibilities and it was on his judgment, so far as I know, that the Southern Pacific company selected oil lands around that country. I knew a man by the name of E. T. Dumble, who was in the employ of the Southern Pacific Company as Consulting Geologist. I had just a slight acquaintance with him. I also knew a man by the name of Josiah Owen. I have seen Mr. Dumble in and around the Elk Hills but I don't know that I ever saw Professor Owen there. This was along in 1902 or '3 but I am not positive as to the year. I have seen these gentlemen together driving. At that time Mr. Dumble was the head man of the K. T. & O. and all his foremen and employees reported to him and they would send lots of mail from the offices. All the reports went to him. I handed lots of telegrams to him about the daily production of oil and all that kind of thing. Mr. Owen's business was merely looking the ground over.

We made these locations in the Elk Hills because the oil [1601] excitement around there affected us and we thought that we might have a chance to make something if there was oil there.

The only time I went out for the purpose of making these locations must have been on New Year's day of 1900. I cannot say that we thought well of these locations at that time as we did not know anything

about the land. We were just like others who were taking up land on the chance that it might turn out to be all right and we didn't know anything about oil at all. We understood that that we could make our locations and that we had two years in which to do our assesment work and that we could hold on to the locations for that time and see what turned up.

My wife and I were interested in numerous locations in the Elk Hills after 1903. Our interests consisted in having our names placed on the location notices by other parties.

After the drop in the price of oil at McKittrick we lost interest in these locations. We didn't think enough of the land to want to put any money in it. There were no companies coming down that way to prospect the land so that we could get a line on what was in them.

C. A. BARLOW, a witness called and sworn on behalf of the defendants testified as follows:

DIRECT EXAMINATION.

My home is in Bakersfield, California, where I have lived since January, 1901. During that time I have been engaged in the oil business and mining business. From 1896 to 1898 I was a member of Congress from the Sixth District of California.

My experience in the oil business has been largely in the Maricopa and Midway field. I had a small interest in an oil company at McKittrick. I first went into the Midway in January, 1901, and from that time up to 1905 I went all over the fields there pretty gen-

erally and particularly the country known as the [1602] Midway and Maricopa field. The occasion for going over this country was that my partner, Mr. Hill and I were engaged in the preparation and publication of annual maps of the oil fields and I personally collected a great deal of the data for these maps in the fields. Mr. Hill did most of the office work in connection with the publication.

As a result of my observations in collecting this data I found that prior to January 1, 1905, the oil development was confined to the field running from Maricopa through the Midway up to what is known now as the north Midway field and then to the McKittrick field. This development was along the northeast side of the Temblor Range of mountains and varied in width from two to three miles out to the foothills of the range. At that time it did not get away from the foothills any distance to speak of.

During those years I was interested in sections 23 and 25 of township 32-23 Mt. Diablo Meridian and also in sections 2 and 3 of township 11-24 San Bernardino Meridian.

We were producing oil in three different places in sections 25 of township 32-23 on what is known as 25 Hill. We were also interested in the Sunset field in the Adeline Oil Company and Adeline Extension Oil Company.

I am acquainted with the hills known as the Elk Hills and went in there for the purpose of drilling for oil in the spring of 1910. The statements in Bulletin No. 406 written by Ralph Arnold and Harry

Johnson had a great deal to do with our going in there. We took over some locations that had been made by others in sections 2 and 3 in township 31-24. We put up derricks and began drilling a well on the southeast quarter of each section. Both of these wells were drilled to a depth of between 1250 and 1400 feet. When we started the wells we were led to believe by the statements in Bulletin 406 that we would get oil at a depth of about 1300 feet. When we had gone to this depth [1603] without striking oil we delayed further operations to see what result Mr. Kinsey would get in his well on Section 12 in the same township. He drilled to a depth of about 4800 feet and abandoned his well and we then abandoned our wells and moved off everything that we could move to any advantage. This development work cost us something over \$72,000.

At the time we went in there there were a great many of the large producers commencing operations in the Elk Hills, including the Esperanza Company, the Balfour-Guthrie Company, Union Oil Company, Associated Oil Company, and Hart Oil Company.

I endeavored to keep reasonably well posted on the work that was going on in that country especially at that time as we were getting out the map books I have already mentioned. In collecting data for these maps I always endeavored to ascertain whether a well was producing oil or not. We endeavored to have our maps show the situation and development as accurately as we could get the information and I think that our books were considered to be the most reliable

that were ever published in connection with that field. On account of the reputation of these books the operators were very glad to give us information in connection with their wells.

I was in the Elk Hills last in the spring or summer of 1912. At that time there was no work being carried on there and the different operators of whom I have spoken had either shut down or moved out.

I would not advise anyone to go into the Elk Hills now and expend money with the expectation of finding oil. I certainly would not go there myself and I would not have gotten out of there if I had any idea of getting oil. I do not profess to be a geologist and base my conclusion upon my practical experience as an oil operator. I would rather take a practical operator's opinion of an oil territory than that of any geologist I ever saw. [1604] I have good reason for saying this because I know that the Kern River field was turned down by every geologist who examined it and yet a wonderful oil field was developed there. The locators who hired geologists during the excitement at Kern River were all advised by these geologists to go northeast from the discovery up toward the river. They got no oil there at all and the other fellows who went out into the field and took what was left to the northwest got the Kern River field.

Our withdrawal from the Elk Hills was not due to financial difficulties. We had spent all the money that we cared to spend there and had reached the

conclusion that it was not practical to develop oil in that territory.

CROSS EXAMINATION
OF

C. A. BARLOW.

I put up between eight and ten thousand dollars of my own money and my partner, Mr. Hill, put up a like amount for this development in the Elk Hills. We concluded from the fact that Mr. Kinsey had failed to find oil and from the other drilling around there that we should abandon our property.

Q. However, the amount that you yourself spent was eight or ten thousand dollars? Is that right?

A. Yes sir; something of that kind. But I will say, further than that, that when we moved out of there of course we were short of money in the treasury to pay our bills, and Mr. Hill and myself paid several thousand dollars of money that other fellows who owned stock in the company should have paid whom we had invited in, but we didn't feel they were able to carry it.

Q. You were somewhat influenced in abandoning your attempt there on Sections 2 and 3 in 31-24 by the results obtained by Mr. Kinsey in the well near there?

A. Yes sir. [1605]

Q. In which he had gone somewhat deeper?

A. Yes sir.

Q. Now, that well of Mr. Kinsey's was sunk in the neighborhood of 4000 or 4500 feet?

A. Something over that, I think. I don't remember just what the depth is. I think it was very nearly 5000 feet.

Q. And to what depth had Mr. Kinsey's well been sunk at the time you withdrew your tools from Sections 2 and 3?

A. He had abandoned the well before we withdrew them.

Q. And you judged from his failure at that time to get oil that it would be useless for you to proceed further?

A. Yes; that in connection with other drilling around there.

Q. You were largely influenced by his failure to get oil there?

A. That was one of the influences.

Q. Did you pursue your investigation far enough to know that the plunge or dip of the anticline on the Elk Hills is toward the Kinsey well, and that there would be very little possibility of Mr. Kinsey ever getting any oil there at all?

A. That might be possibly proved to be so, although the Esperanza had a very deep hole right south and got nothing.

Q. And that is owing to the condition of the dip of the anticline?

A. I don't know. It might be.

Q. In other words, you didn't pay much attention to the dip of the anticline at the time you located those wells?

A. I read Mr. Arnold's report very carefully and formed my own conclusion.

Q. Can't you make that answer more specific? (Question is read by the reporter.)

A. Yes; we took considerable time and paid a good deal of [1606] attention to studying that out—Mr. Hill and myself.

Q. Did you have the advice of any geological expert?

A. No; we don't go very much on geological advice.

Q. And you had no advice from any geologist on those questions?

A. No. I wouldn't pay a geologist a cent for any information he could give me on the location of a well.

Q. And you have entertained that opinion ever since you have been in the oil business?

A. I have—no; I won't say that. Hold up. I won't say that. That is the result of my observation in the twelve years I have been in the business.

Q. And yet we find you in the spring of 1910 going in on the advice of Mr. Arnold into the Elk Hills?

A. Yes sir; that was one of the factors. Everybody was going in.

Q. Which is the fact—that you went in on the advice of Mr. Arnold or that you went in on your own initiative and the combined judgment of yourself and your partner, Mr. Hill, on Section 2 and 3, 31-24?

A. That report, I think, probably somewhat influenced the movement that way. Oil men were go-

ing in there. Operators were going in there, and we naturally went along with the rest, you might say.

Q. Well, did you naturally go or did you go because of Bulletin 406 that was prepared by a geologist?

A. Well, I would say that Bulletin 406 might have had something to do with our going there, but it was not a determinative factor.

Q. Well, you had formulated the opinion prior to 1910 through some ten years' experience in the oil business that a geologist's opinion was of no value to you. Would it then [1607] have had any influence in determining the location of those wells by you and your partner?

A. Oh, it might have been a factor and probably was. But I am not a very great admirer of geologists' reports.

Q. Was your opinion strengthened or weakened by your experience in Sections 2 and 3 that you have described?

A. It was strengthened, I suppose.

Q. And it was largely strengthened because of the limitations placed in that report at 1300 feet, was it not?

A. No, no. If we had had any idea that we could get in there from the development work going on around there that there was oil at 3000, we were prepared to go down.

Q. You know, do you not, Mr. Barlow, that oil has been discovered in Section 30, 30-24, and in Section 24 and 26 in 30-23?

A. I have seen the oil in Section 30 and Section 26.

Q. So that you know that discoveries were made there?

A. Yes sir.

Q. At what depth was that discovered?

A. I don't remember off hand.

Q. Can you approximate it for the benefit of the record?

A. No, I don't think I could endeavor to do that. It is a matter of conjecture.

Q. Did I understand you to say that you kept in close touch with the operations in the Elk Hills and elsewhere that were embraced in information conveyed by your maps and books published by you and Mr. Hill?

A. Yes sir; but not particularly to locations of the wells or particularly to the depths at which oil might have been discovered.

Q. Generally as to the fact whether oil had or had not been discovered? [1608]

A. Yes sir; that was it, largely, as near as we could get it.

Q. A practical operator does not pretend to know, does he, whether or not oil is below the place where he stops his drill?

A. Oh, when a man is wildcatting he generally goes on till he satisfies himself or is satisfied by the operations on adjoining property that it is useless to spend any more money. I am operating right to-day—

Q. I will repeat the question. Does a practical operator, from your own experience, from what you know of the oil business, pretend to know, after he has stopped the drill at a certain level, whether oil does or does not exist to a certainty below the point where he stops the drill?

A. It depends on where he is operating. If he is operating on unproven territory, any man is a fool to pretend that it is below there for a certainty.

Q. Does a practical operator in proven territory pretend to know that oil exists or does not exist to a certainty below the point where he stops his drill?

A. No sir. No man in drilling an oil well can say to a certainty that oil exists at a certain point, because right in the heart of proven territory, with wells all around, I have drilled absolutely dry holes away below the depth at which the oil had been found.

Q. Then you are not able to determine yourself whether oil exists below the point where you abandoned your wells in Sections 2 and 3?

A. No sir; I am not able to determine it as a fact.

Q. You do know from the experience you have and the knowledge which you obtained in those oil fields that the Elk Hills are deep and expensive territory, do you not, that that is the fact? [1609]

A. Well, probably that has been determined.

Q. Were you present on Section 30 when they brought in the 350-barrel well—the Associated Oil Company?

A. No sir; I was not.

Q. You don't pretend to know what the capacity of any of those wells is, do you?

A. No; but I would make a guess from the information that I have gathered—

Q. I am not asking for a guess.

A. I will state as a fact, the way you gather any information—

Q. You need not volunteer any hearsay information, because it is not responsive to my question. I am asking you if you know of your own knowledge?

A. No; I do not know of my own knowledge.

Mr. Lewers—And nobody else does.

A. No. He wouldn't let me say that.

Q. By Mr. Mills—You don't mean by your attitude, do you, Mr. Barlow, to incumber the record with observations not responsive to the question?

A. No, no. I don't mean to do that.

Q. You have no special interest in the Southern Pacific Company in this case, have you?

A. Not a particle in the world.

Q. Have you had any previous political affiliations with that company or its representatives which would embarrass you in any way?

A. My political record might speak for that. I may say that I got the first \$400,000 appropriation for Los Angeles harbor against the worst fight that was ever made by the Southern Pacific Railroad in this state. So my affiliations were not particularly with the Southern Pacific Railroad. [1610]

Q. You were interviewed by representatives of

the government about a year ago, were you not?—By Mr. Gardner?

A. I can't tell. A great many men have come in to our office. We don't know whether they are representatives of the government or who they are.

Q. And Mr. Gardner, a special agent of the general land office, approached you on or about a year ago as a prospective witness for the government in this case?

A. I can't remember.

Q. And stated to you that he was a representative of the government and my office?

A. I don't remember that. A great many men come into the office.

Q. Does your recollection go back clearly enough to remember that you told him then that you believed the Elk Hills are good oil territory, but that you didn't want to be mixed up in this case?

A. No, no. I made no such statement as that.

Q. That your relations with the railroad company were pleasant; that you had nothing against them or for them; and that you desired to keep out of this case? And that you privately entertained the opinion that the Elk Hills were good oil territory?

A. After I moved my rigs out of there?

Q. About a year ago?

A. No; I never told anybody after I moved out of there that I considered the Elk Hills was good territory.

Q. Will you state that you did not say that you

regarded the Elk Hills as good oil territory and did not want to be mixed up in this case?

A. No; I won't say that. I will say that I did not make a statement that I considered the Elk Hills good oil territory [1611] to anybody.

Q. And, for that reason, did you not ask Mr. Gardner not to subpoena you because you thought your relations with the Southern Pacific were pleasant and you didn't want to be mixed up in the case?

A. No; I don't think I made any such statement as that. I don't see why I should. I would just as soon tell what I know as to my opinion to the Southern Pacific as I would to the government of the United States.

Q. Are you still in partnership relations with Mr. Hill?

A. Yes sir.

Q. Mr. Hill testified in this case, and I think it was on April 16th of last year, at page 13 of the reporter's transcript. He was examined with reference to a certain map which accompanied one of your books published in 1904, as follows: "Q—Now, referring to sheet marked Range 21 East, 22 east and 30 south, 'McKittrick Oil Fields,' will you explain how that map was constructed by you? A—We have copies of all these separate townships, obtained at the land office in Visalia, giving the outline and the acreage and survey directions in our office. From this I compiled these maps myself, as far as the outline is concerned and the acreage. The other data on the maps was obtained, nearly all, by personal

visit. The other data consists principally in the location of oil wells or oil drilling rigs or abandoned wells. That is the data that I speak of as obtained by personal visit by myself through the fields, most of it." Is that correct?

Mr. Lewers—In all fairness I will say that in cross-examination Mr. Hill corrected the last part of it.

A. I think Mr. Hill will admit himself that I did most of the outside work.

Q. By Mr. Mills—Is Mr. Hill in error or is he correct?

A. I don't know that he is in error. He did some of it [1612] too. I will make the statement that I do most of the outside work of the office.

Q. I am speaking of 1904?

A. Yes; 1904 too. I always have done most of the outdoor work.

Q. What do you say about that statement? Is it correctly stated or incorrectly stated?

A. When we speak of ourselves we speak of the firm of Barlow & Hill. When he spoke of the gathering of information he was speaking of the work gathered by Barlow & Hill.

Q. He used the words "personal visit by myself".

A. He does a great deal of it.

Q. The question asked is, did he state the fact correctly according to your knowledge, or incorrectly?

Mr. Lewers—Objected to as an attempt to impeach the testimony of the witness Hill, a witness on behalf of the government; and, further, that counsel is un-

fair by not referring to the testimony of Mr. Hill on cross-examination.

Mr. Mills—I intend to take that up. There is no need for any excitement on your part.

A. I will make this statement: Any statement Mr. Hill made as a witness was absolutely true. I will make that statement for Mr. Hill.

Q. So, if he made that statement, it was absolutely true?

A. From his standpoint, yes sir; and I make the statement that I gathered most of the outside data, and I make it with the same emphasis that it is absolutely true from my standpoint. If you want to determine that factor, if you will call Mr. Hill he will tell you that is a fact.

Q. On cross-examination Mr. Lewers asked this question, at page 17 of the reporter's transcript: "Mr. Hill, was all of the printed matter in this book prepared by you? A—By me personally? [1613] Q—Yes. A—No. My partner attended to the advertisements. Q—Well, I am referring to that portion consisting of matter other than advertisements. A—That was prepared by me." Was that a correct statement of the fact?

A. No; that was not a correct statement of the fact absolutely.

Q. So Mr. Hill erred in that statement?

A. Yes sir. That is, not as to the drawing of the map, Mr. Hill drew all the maps.

Q. Mr. Hill was further interrogated as follows by Mr. Lewers: "Q—And was all of that prepared

by you as the result of personal investigation made by yourself, or was any of it based on reports made to you by other people? A—Why, a good deal of it was based on—the names of companies I got from superintendents, and such things as that. Of course, I didn't go and look at the corporation papers to find out. Q—Did you obtain any other material besides the names of companies from other individuals? A—Yes. I obtained some locations of the particular part of the property on which the well was located, from the superintendents. Q—Now, this purports to set forth locations on the ground, of various claims, or the owners of property on various portions of the territory. Did you in each and every instance verify that information yourself, or did you base any of those statements upon hearsay testimony? A—Most of them were from the parties themselves; but some of them necessarily must have been from hearsay, that is, from their neighbors. Q—Some you got from neighbors and the rest you got from the individuals themselves? A—That is, in regard to ownerships, principally. Some I got from the abstract office—ownerships.” And on page 19: “A—I generally found the property and inquired who owned it. Q—Now, did you in each and every case go upon the section? A—Not every case? Q—In how many cases out of all of these that you have here [1614] (referring to the maps)? A—Only where there was development.” Is that correct?

A. I should say that that was an absolutely correct statement.

Q. Further examination by Mr. Lewers at page 20: "Q—Then, this is not all based upon your personal visits to each and every claim? A—As far as these three maps are concerned— Q—I am not referring to the maps. A—I did. But in the Coalinga case I took most of that information from other parties." Is it true that Mr. Hill prepared from personal visits in the field the information which is contained in the maps?

A. I will make this statement; Mr. Hill when he made that statement was speaking of the information gathered by the firm.

Q. Mr. Hill, however, does not say that.

A. You can call Mr. Hill back and that is just what he will say.

Mr. Lewers—That is the way I understood it when he gave it.

A. When I said that I did most of the outside field work, it is a fact.

Q. By Mr. Mills—Mr. Hill has stated that you did most of the advertising work.

A. Yes; I did all the advertising work. And, if there is any question about that, I will be very glad to have Mr. Hill recalled on that proposition and asked that question.

Mr. Lewers—By the way, is Mr. Hill in town?

A. No; he left home last night. I would have given a quarter of a dollar to have him testify here tomorrow about this.

Q. By Mr. Mills—You didn't have an oppor-

tunity to read the testimony of Mr. Hill before you came on the stand?

A. No sir. In fact, I really didn't know that he testified.

Q. Now, you say you went in the Elk Hills in the spring of [1615] 1910.

A. I believe it was the spring of 1910.

Q. What month was it?

A. I can't determine that exactly.

Q. Can you approximate it?

A. I think it was in—the grass was green out there at the time we went out. It was some time in the spring.

Q. About April or May?

A. I should judge it was along about that time.

Q. Or June?

A. Or June; somewhere along there.

Q. You purchased from locators, I suppose, the rights which you claimed to operate on those lands, or did you locate them originally yourself?

A. No; we did not locate them originally ourselves.

Q. You were operating under claims which had been obtained by other locators?

A. Yes.

Q. When did you erect your first derrick? What month?

A. We erected derricks as quick as we could that spring.

Q. What month did you actually begin drilling operations?

A. I think we were drilling on the first well as early as May or June. That is just a matter of memory.

Q. You were in there subsequent to the order of withdrawal by the Secretary of the Interior of 1909?

A. Yes sir; and prior to the one of 1910.

Q. And every company which operated in that field upon locations previously made by others, and whose rigs went up in 1910, were operating subsequent to the order of withdrawal by the Secretary of the Interior?

A. September?

Q. 1909? [1616]

A. Yes. We never considered that a valid withdrawal order.

Q. And that validity and that order is about to be tested by the suits brought on behalf of the government against parties who have in defiance of that order gone upon the public domain for the purpose of extracting and mining minerals. Is that so?

A. Yes sir.

Q. So, that whatever oil you may have discovered at that time, Mr. Barlow, the title thereof might have been insecure by reason of that executive order of withdrawal?

A. I never considered it such, and the best legal advice we could get, such as Frank H. Short, never considered it such. In fact, we took the advice of Mr. Short on that proposition.

Q. And that order itself would have successfully

clouded any title which you could have had and which you might thereafter attempt to market?

A. Not in my judgment.

Q. Do you mean to say that you could have sold your land to exploiters or actual developers of oil land with the same ease as if that order had not been made?

A. Possibly not. But I would not have expended my own money if, in my opinion, the title would not have been good, if we made a discovery. Nor would I have asked my friends to put up theirs.

Q. Your withdrawal from that field was influenced somewhat, was it not, by your suspicion that you would be unable to acquire any valid or legal title to the land because of the executive order of withdrawal of September, 1909?

A. No sir.

Q. And the rigs of the Associated Oil Company were hauled onto the lands on 26, and 24, of 30-23, and on Section 30, of 30-24, just two days before the last order of withdrawal, was [1617] it not?

Mr. Lewers—To which I object as not cross-examination.

A. I can't tell you.

Q. By Mr. Mills—Don't you keep in touch with oil rigs when they are put up?

A. Not within twenty-four hours.

Q. Weren't your rigs there two days before the second order of withdrawal?

A. No sir; our rigs were on there and erected.

Q. How long before the second order of withdrawal?

A. I can't tell you how long, but they were up.

Q. Some advance notice was obtained by parties interested in exploiting the Elk Hills as petroleum-bearing fields, of the intention of the proper officers of the government to withdraw those lands from disposition for mineral purposes, to your knowledge, were they not, in and about Bakersfield?

A. I don't know that I had any information of any second withdrawal until it was made—legal withdrawal, I mean.

Q. You don't know of a single derrick there now in operation or recently closed down in the Elks Hills that was put up there before the first order of withdrawal, do you?

A. The 1909?

Q. Yes sir.

A. I couldn't tell you that off hand.

Q. Doesn't your general knowledge of the oil fields give you information on that subject?

A. Well, that is three years old. I can't remember that.

Q. You don't know of a single derrick that was up before the September withdrawal of 1909 in the Elk Hills?

A. I couldn't answer that.

Q. When was the first one put up in the Elk Hills to your knowledge? [1618]

A. I couldn't tell you that now.

Q. Can you approximate it?

A. No; I won't make an approximation.

Q. Do you think that Mr. Hill could tell?

A. You will have to ask Mr. Hill.

Q. So far as you know, neither member of the concern can now tell anything about that subject?

A. I can answer for Barlow. You will have to ask Hill.

Q. As a matter of fact, it is due, principally, isn't it, Mr. Barlow, to the fact that the information collected in the field that you publish to the world in your books is obtained largely by your partner, Mr. Hill?

A. No sir; it is not a fact. It is obtained by the firm of Barlow & Hill.

Q. Do you subscribe to the paper known as the California Oil World, published in Bakersfield?

A. Yes sir.

Q. Do you read the papers?

A. Sometimes, and sometimes not. Generally not, to tell the truth.

Q. Then you don't keep track of the information contained in the Oil World relating to the oil lands generally?

A. Sometimes; yes.

Q. Don't you know that the Oil World published a few weeks before July 2, 1910, contained articles relative to the possibility and probability of the last withdrawal order?

A. That might have been true. I can't say that it was. I do not doubt that it was true, for the reason that everybody considered the first one without any

force and effect, and they have expected them to make a legal withdrawal as authorized by Congress.

Q. Mr. Barlow, you testified day before yesterday against [1619] the government in the case of the United States versus D. B. Harris, involving the homestead entry in the southeast quarter of Section 4 of 11-23, S. B. M., did you not?

A. I believe that I did.

Q. How far distant are Sections 2 and 3 and 31-24 from Section 35 in 30-23?

Mr. Lewers—To which we object on the ground that it is not cross-examination. It is a matter of computation which counsel can do as well as anybody else. I suggest, Mr. Mills, that you take a map and measure it.

A. I haven't got those sections clear in my mind now.

Q. By Mr. Mills—35 is the nearest lands to Section 2 and 3 on which you operated—which are involved in this suit?

A. Is that 35 in the same township?

Q. No; 30-23. It would be the township cornering onto the northwest.

A. Well, it would be practically 6 miles, I should judge. It would be across all of 30-24 diagonally. About 6 or 7 miles.

Q. Your experience in Sections 2 and 3, which you described in 31-24, would have no bearing whatever on the oil-bearing character of Sections 15, 17, 19, 21, 23, 25, 27, 29, 33 and 35 or 30-23?

A. That is the township west—not in my judgment; no sir.

Q. The sections which I have described may be underlain with highly saturated oil-sands, and your experience there in Sections 2 and 3 would have no bearing toward the developing of that fact or anything in connection with it?

A. Not in my judgment as an operator.

Q. You don't pretend, now, Mr. Barlow, to say, from that experience or from anything that you know, that oil is not underlain, in the sections I have described, in large commercial [1620] quantities?

A. No sir; I don't know that it is not there.

Q. What is that?

A. I don't know that it is not there.

Q. You don't know that it is not there?

A. No sir. I don't believe anybody does know that it is there.

Q. You know that oil has been discovered in the even sections interspersed with those lands, don't you?

A. That don't necessarily prove that it is on the odd.

Q. No; but I say you know that fact.

A. I know that it is on 26 and 30. Those two are the only ones I know of my own absolute knowledge. I have seen it there.

Q. Now, you spoke of some fields that were turned down by geologists. Among them you mentioned the Kern River field.

A. Yes.

Q. What geologist turned down the Kern River field?

A. Well, I can't give you the names of them, but Mr. Blodget has told me —

Q. Now, Mr. Barlow, you are a lawyer yourself. I don't want any hearsay.

A. Well, but I know that is the general report.

Q. You don't know, of your own personal knowledge, do you, that any geologist turned that field down, except from hearsay?

A. Not from the names of them; no sir. Just from hearsay of the gentlemen who hired them to do the work.

Q. In other words, you have no personal knowledge on that subject at all, have you?

A. No sir; not direct from the geologist themselves. Just simply the men who hired them and paid the bills.

Q. Do you know, of your own personal knowledge, of any other field that was turned down by any competent geologist [1621] which afterwards proved to be a petroleum-bearing field?

A. I know, from my own experience, of anticlinals that have been marked out by geologists where I have drilled and failed to find oil, outside of the Elk Hills anticline.

Q. Now, will you read that question again and see if Mr. Barlow thinks that is responsive.

Mr. Lewers—I think it is perfectly responsive.

(Previous question read by the Special Examiner.)

A. Not of my own personal knowledge.

Q. Not of your own personal knowledge?

A. Yes.

Q. You have no definite personal knowledge whatever, now, have you, Mr. Barlow, of the petroleum-bearing character of the sections which I have described in Township 30-23?

A. No; I have no absolute knowledge of the petroleum character of those sections.

Q. And you have never made any geological reconnaissance or examination of those lands, to determine for yourself, even, have you?

A. I have looked over them from a practical operator's standpoint.

Q. And you don't pretend to any expert geological information or knowledge, do you?

A. Not a bit.

Mr. Mills—That is all.

REDIRECT EXAMINATION

OF

C. A. BARLOW.

By Mr. Lewers:

Q. Do you believe that the Elk Hills, the lands to which Mr. Mills has referred, have any petroleum character?

Mr. Mills—That is objected to as highly improper, inas-[1622]much as the witness has stated that he has had no experience or made any geological examination of the land for the purpose of discovering whether they bear petroleum or not; for the further reason that he says he is not a geologist.

Mr. Lewers—You may answer.

A. What is the question. (Question repeated by the Special Examiner.) As a practical oil man I would not drill on them.

Q. Is it possible, Mr. Barlow, in your opinion, basing your answer upon your practical experience in the oil business, for anybody to say that he knows there is oil land unless he finds it in the drill?

A. I don't think so.

Q. You were asked, Mr. Barlow, whether or not you had testified day before yesterday, I believe it was, in a proceeding which the government has brought against Mr. Harris.

A. Yes sir.

Q. Has that proceeding been concluded here?

A. I believe it was concluded very abruptly.

Q. Did the government introduce any testimony at all?

A. They didn't put in any geological testimony at all.

Mr. Lewers—That is all.

RECROSS - EXAMINATION
OF
C. A. BARLOW.

By Mr. Mills:

Q. Do I understand you to say that the government introduced no geological proofs whatever regarding that land?

A. No sir, not to my knowledge. We were down here prepared to—

Q. I am not asking whether you were prepared for anything; I am asking you whether you did that or didn't.

A. Well, not that I know of, sir. I was told by the at-[1623]orney that—

Q. Don't you know that the government introduced a classification, showing those lands as oil lands, by Arnold & Johnson?

A. I believe they did put in that report; yes. That don't determine them as oil land by a long ways. They had a geologist there to make some testimony, but they didn't come on the stand.

Q. Were the maps prepared by Barlow & Hill prior to 1904 calculated to portray the correct development of those oil fields?

A. As near as we could gather it, yes sir. We don't claim they were absolutely correct.

Q. And were they largely distributed to the public?

A. Yes sir; very largely.

Q. And sent to all parts of the country?

A. Yes sir.

Q. And do you keep in touch with parties who desire copies of your maps so that you know generally where they are distributed?

A. Well, I know that they are distributed through a great many selling agencies; but we have calls for them—used to have—from all over the world.

Q. And you have distributed them to several officers of the Southern Pacific Company from time to time?

A. They have bought maps from us, yes sir, as well as most everybody else.

Q. And they began purchasing maps from you from the time you began publishing them?

A. Yes sir; I presume that is so.

Mr. Mills—That is all.

REDIRECT EXAMINATION

OF

C. A. BARLOW.

By Mr. Lewers: [1624]

Q. Do you know whether any of those maps were furnished to representatives of the government?

A. How do you mean?

Q. To any field men or geologists for the government, in the nineteen hundreds?

A. I don't gather the question.

Q. What I mean is, do you know whether any of those maps were sent to any of the departments at Washington?

A. Yes sir.

Q. The United States Geological Survey?

A. Oh, yes sir, yes sir; all of them.

Mr. Lewers—That is all.

RECROSS-EXAMINATION

OF

C. A. BARLOW.

By Mr. Mills:

Q. Those maps ran in an edition as high as 2500 to 5000?

A. Yes sir.

Q. During those years?

A. Yes sir.

Q. Including the year 1904?

A. Yes sir. We always used to send them to some parties whom we were acquainted with in the Geological Bureau—Dr Holmes and several others. [1625]

HENRY A. GREENE, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I live in Los Angeles and am a partner in the firm of Greene and Hutchinson dealing in oil and agricultural lands. I have been in the oil business since 1901 in the Los Angeles, Newhall, Kern River and West Side fields and have been connected with producing properties in the Midway field.

My firm drilled a well in section 4 of township 31-24 in the Elk Hills. This well was started in the Fall of 1910 and drilled to a depth of 2600 feet. It was drilled with a standard rig. I was present quite frequently during the drilling operations. We found good formation and some gas and one dry oil-sand in this well. This dry oil-sand was a coarse sand with a good deal of quartz in it and absolutely dry. It showed oil stain and a little odor of oil. It was not asphaltum. It was found at a depth of about 1400 feet. We did not have any tests made to determine whether or not it contained petroleum.

I do not know of any indications of oil below the 1400 foot level but the man in charge of the drilling reported that he had some signs of oil just about the

time we quit, consisting of a stain in the mud. We ceased operations in that well in May, 1911, and I abandoned and wrecked the property. It is not our intention to do anything more there unless conditions change very much. We have got to see some real oil up there before we start up again. So far as that is concerned, we have lost all right to it. It was under locations that we were working it. We spent about \$45,000 on this drilling.

CROSS-EXAMINATION

of

HENRY A. GREENE.

Our well was two or three miles away from the Hart [1626] wells. I have been all over the Elk Hills but have not made any particular study of that field as I am not a geologist.

We found gas in our well at a depth of four or five hundred feet. This dry oil sand I have referred to was about six feet in thickness. We found this dry oil sand at 1400 feet. At 2600 feet it was reported to me that there was a discovery or trace of oil in the mud. The latter indications was reported to me just about the time we stopped drilling and were pulling out and that really didn't mean anything.

The territory in the Elk Hills looked as though it was going to be exceedingly deep and almost impossible to drill.

E. L. BATTE, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

At present I am living at 221 South Hill Street,

Los Angeles. I am an oil well driller and have been engaged in that business for the last 12 years. I acquired my experience in Texas where I worked in the Beaumont field. I came to California four years ago. I have drilled over most of the Midway field and at Coalinga and have been using the rotary system which I used in Texas. I have not had much experience with the standard rig.

I had charge of drilling the wells for the Hart Oil Company in sections 11 and 13 in township 31-23 in the Elk Hills. I took charge of this drilling when the well in section 13 was down 1300 feet and that in section 11 was down 1100 feet. I drilled the well in section 13 to a depth of 3650 feet and the well in section 11 to 2100 feet using a rotary drill in this work.

About the only formation we had all the way down was blue shale and the use of the hydraulic system naturally washed [1627] that formation and we kept a bucket on the discharge and washed the formation out to see whether there was any oil or not. After we had got to a depth of twenty-three or twenty-five hundred feet we put a T on top of the well and ran a pipe from that and put a tub under the discharge in order to catch the formation. We found no oil in this well. I am certain that we passed no oil in sinking this well or the one in section 11 as we could not do so without discovering them.

I say this because we were practical drillers and we watched the formation very closely and I do not think there was any question that we would have known if oil had been encountered. I was particu-

larly interested because I had an interest in the company myself as I owned \$2700 worth of this stock. After we reached the depth I have mentioned, the operation of the wells was abandoned and a watchman was put in charge of the property. I understood since that time the casing has been pulled out of the wells.

I would not advise anybody to invest money in the territory surrounding the Hart wells with the expectation of finding oil.

I would not invest any more of my own money in any part of the Elk Hills because I have no confidence in that territory as an oil proposition.

CROSS-EXAMINATION of E. L. BATTE.

When I took charge of the Hart wells the one on 11 was down to 1100 feet and the one on 13 was down to 400 feet. I have no personal knowledge of what the well passed through before I took charge. I do not know whether they discovered gas in the well on section 11 before they reached the [1628] 1100 foot level or what oil sands were passed through in the other well on section 13 before they reached 1400 foot level. On these wells we worked a day and a night shift. I did not work on either shift. I was in charge of the wells. I worked there from June, 1910, to January 5, 1911, and was around there considerable. When I was not at the wells I would be on the lease or at Taft. When I was not present at the well I do not know

what the drill passed through or what formations were passed through or whether it passed through oil formations or not and there were times when I was visiting other wells when I was not at the wells on 11 and 13 at all. I do not know what the oil bearing formation or the actual geological formation is under section 15, township 30 South, Range 23 East, or of section 19 or of section 29 in the same township. As a common driller I don't know what difference it would make whether we put a "T" connecting the head of the well with a discharge pipe at the edge of the derrick where we were using a rotary although we did put one on the well in section 13 between twenty-three and twenty-five hundred feet because it made it handier to let the stuff run out into a tub although it did not facilitate any definite information with reference to the formation. I don't pretend to have any definite information of the geology or underground formations of any of the lands in Township 30 South, Range 23 East, so that whatever information I have about the wells on the property would have no bearing whatever upon the lands in this suit and as a driller I do not know what formation is below the drill and there might be the finest kind of petroleum bearing sand where we stopped and I not know it. I do not agree with Mr. John A. Pollard, who was on the stand before me, in his statement in the article which he wrote in the *California Oil World* on April 18, 1912, in which he stated: "In order to log a rotary well correctly a discharge pipe should be connected with the head of the well by means of a

“T” to the outside edge of the [1629] derrick. This is very seldom done by most of our drillers and the result is that if it is not done that the formation becomes mixed in the sluice box under the derrick so that the driller is unable to get correct samples.”

I hardly think that many failures are made in this business through negligence. In other words, it does not make any difference whether a fellow is negligent or not, if he is lucky he gets oil.

REDIRECT EXAMINATION

of

E. L. BATTE.

I went to the well once since it was closed down and found that there is salt water in it now. The presence of this salt water influences my opinion of this territory because it has been my experience that oil is not found below the point where salt water is struck. Of course you could not tell but I would not think so. Of course I do not mean to generalize from my experience that no oil is found below salt water as it may be.

In drilling these wells we took more than usual precautions because they were prospect wells and the drillers as well as myself were stockholders in the company. [1630]

T. M. STORKE, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION

My home is in Santa Barbara, California, where I

have lived for 36 years. I am a newspaper publisher and own the "Santa Barbara Independent."

I have been interested in the oil business and went to McKittrick for the first time in December, 1909. Several months after that I went into the Elk Hills, where I was interested as one of the organizers of the Scottish Oil Fields Limited, which operated on Section 20, 30-23.

This company was organized in the spring of 1910, and started active operations a few months later. The incorporators were mostly wealthy people who spend their winters in Santa Barbara.

After we started our operations, I spent a great part of my time in the Elk Hills, from the time we started in October, 1910, until November, 1911, when we ceased operations. There were three or four months of that time that we ceased operations. During this time I was in touch with the operations practically every day.

My company drilled a well in Sec. 20, 30-23, 4,005 feet deep. We used standard tools for 2200 feet and a rotary the rest of the way. I had charge of this work and the drilling was carried on under the advice of Mr. L. J. King, who was a superintendent of the Associated Oil Company in that territory. He was frequently on the ground where we were drilling—sometimes not more than once a week but at other times twice a day, depending on the importance of the work at the time.

After we started the use of the rotary we gathered the cuttings from the drilling all the time and took

samples twice a day, during the first period of the drilling, for the purpose of [1631] testing the formations and to see if there was any possibility of there being any oil. At other times we took samples every half hour. These samples were referred to Mr. King and to Mr. John Lang, who was superintendent of the Hill Crest Company, which company shared part of the expense of our drilling.

We did not find any oil whatever in this well and have abandoned it and it is not our intention to resume work. We have pulled out the casing and sold it. We sold the rotary and standard outfit used in drilling this well to Captain Barneson, Vice President and General Manager of the General Petroleum Company. We tried to sell him our rights in the ground but he said that he did not care for them as he did not think that that land was worth anything.

We arranged with Mr. King of the Associated Oil Company that he was to act in an advisory capacity in connection with our drilling, in return for 5,000 shares of stock which we agreed to take off his hands at \$1.00 a share in the event oil in paying quantities came in. Outside of that he received nothing. He received daily reports from our head driller and employed our crew and in fact sent over employees from the Associated Company's property. In addition to this, the Associated Company lent us a great many tools and materials and we also used water that they had brought from the Buena Vista Lake, a distance of eight or twelve miles. We paid \$200 a month, however, for this water.

I often made rounds with Mr. King in his daily visits to the different properties of the Associated Oil Company on sections 22, 24 and 26 in Township 30-23 and section 30 in Township 30-24, and was familiar with what was being done there by the Associated Oil Company. When we had reached a depth of 2200 feet in our well, with the standard tools, we were about to abandon the drilling but resumed it on account of the showing in the Associated Company's well on section 26, 30-23. Mr. King encouraged us to do this. When I first thought of interesting my [1632] friends in that field, Mr. King discouraged me and told me time and time again that he did not think there was a drop of oil in the Elk Hills and that he had so advised his own people but that they were going ahead contrary to his advice. Later on he became much more encouraged at the prospects.

We were also encouraged in going in there by Mr. Ralph Arnold's Bulletin No. 406, but I cannot say that that bulletin caused us to go in there. I also read a report that he made on Sec. 30, 30-23 for the Redlands Oil Company, which had a decided influence on my efforts to secure money to continue drilling.

The Scottish Oil Company abandoned its well on section 20 because we believed that there was no oil there. At this time I would not advise anybody to drill on that portion of the hill. I do not know anything about the rest of it. We spent nearly \$73,000 in our development work in the Elk Hills.

We kept a log of this well showing the formations through which the drill passed.

During the time I was in the Elk Hills I have seen bands of 500 to 3,000 sheep in there in the late spring. I know that the soil is capable of growing agricultural products if water is put on it, because I have seen watermelons and tomatoes growing in the garden near John Lang's house on Section 28 of township 30-23.

CROSS-EXAMINATION

of

T. M. STORKE.

I think we began drilling on the 9th of November, 1910. At a depth of about 850 feet we struck some gas and at 1400 feet we struck a very heavy flow of gas. My recollection is that we were not bothered with gas at all until we got down to twelve or fourteen hundred feet. At that time the well was full of [1633] water and the gas threw the water out all over the derrick but this lasted just a few minutes as it was just a pocket of gas we struck. We never struck any showing of oil at all. I was there every minute of the time while the drilling was going on during the day and am certain that there was no oil struck. There were some false impressions as to there being oil in the formation due to the fact that one of the drillers threw a half pint of oil into the well to fool one of the teamsters. We struck considerable gas at 2600 feet and after that gas would break through every now and then, but the driller told me that he thought it all came from 2600 feet. It is impossible for me to say whether it came from that point or lower down.

None of our money was spent in purchasing a right to the land as we got this under a contract from the locators under which we were to drill wells upon a contingent interest.

We were guided very largely in our drilling operations by what Mr. King told us and we abandoned the well upon his advice. I do not think that this advice was given by him on account of the present litigation.

I am not posing as an oil operator or expert. Before I went over to take charge of the property in the Elk Hills I had no practical experience in the oil business except that in 1900 I had some experience in the McKittrick field and the North Midway. The operations of the Scottish Oil Company were not directed by any geologist. A man by the name of F. J. Burns located our wells for us. I don't know anything about the geological formations underlying section 16, Township 30 South, Range 23 East, or underlying any section. Our well was started in November, 1910, subsequent to the withdrawal order of 1909 and 1910 so if we had discovered oil in commercial and paying quantities before we pulled our tools from the well we were uncertain as to the validity of any title we might acquire from the Government and our operations [1634] might have been, so far as I know, a trespass upon the public domain.

I would not give 18 cents an acre for the whole of the Elk Hills for any purpose. If it had water on it it would be very valuable. I do not know what it is

worth for grazing purposes as I have never investigated, but I have seen sheep there in the late spring.

We got an artesian flow of water in our well and others might get the same thing. I believe there are many places in the Elk Hills that are capable of being used for agriculture if they had water.

The only oil that the drillers said that they got out of this well was what they put in themselves. There is naturally some that shows from the tool joints themselves, since as the pipes were being taken in and out the tool joints were greased, and went down into the hole and some of this grease found its way out.

REDIRECT EXAMINATION

of

T. M. STORKE.

The company offered a bonus to the drillers and to everyone there if oil was struck that would warrant us in putting down another well.

In addition to the tools that the Associated Oil Company lent us they also let us have 4050 feet of special drill pipe, without which it would have been necessary for us to have discontinued operations. We did not think that we were justified in buying this pipe and Mr. King volunteered to let us have it and finally did so after obtaining permission from his company. If we had not obtained this pipe we would have abandoned the well at a depth of 3500 feet. Mr. King told us that he wanted [1635] to know what we had in our well as his company thought that the formation was practically the same in our well as it was

in section 22 where they were drilling. His attitude toward us was very encouraging and during the last month or two of our operations he did everything to assist us to continue.

MRS. C. R. THOMPSON, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

In July, 1912, I was living in San Mateo, California, and met Mr. Thomas Thomas J. Griffin for the first time there.

I went to Mr. Lewers' office in last July; I spoke about having met Mr. Griffin and went up there in regard to knowing Mr. Griffin; I had heard Mr. Thompson speak of him so much that I understood he was up there on some oil matters,—something to that effect.

Mr. Lewers took me over and asked me at the map if that was the section that Mr. Griffin was to testify to, and I told him that I did not know whether it was section 30-23 or not, and Mr. Lewers asked me to inquire of Mr. Griffin if that was the section; I met Mr. Griffin at the Goodfriend Hotel and asked him about the section; Mr. Griffin gave me the information about the land that was the section of land, and gave me some figures describing the land; it was something like 30-23, and I then returned to Mr. Lewers' office and told him.

Mr. Griffin had mentioned the fact that he was a witness for the Government when I met him at San Mateo; I cannot remember all the conversation that

took place; Mr. Thompson was present at the time; we had a general conversation in regard to the land which Mr. Griffin was subpoenaed up here for by the Government. Griffin told me that he was a Government witness and was going to testify; [1636] I remember that he mentioned the Elk Hills.

I do not remember the time of day when I first met Mr. Griffin; possibly in the afternoon. I was called up on the telephone, got up and dressed, and met Mr. Thompson and was introduced to Mr. Griffin; we went for a walk and stopped at the depot at San Mateo and the case was mentioned in a casual way.

CROSS EXAMINATION

of

MRS. C. R. THOMPSON.

When I am asked if Mr. Thomas J. Griffin ever sent me to Mr. Lewers' office to talk with him about his (Griffin's) evidence would be in this case, my answer is, absolutely not. That is the absolute truth and nothing but the truth. When I went to Mr. Griffin to find out about the numbers of the sections of land, Mr. Griffin did not know that I had been to Mr. Lewers' office.

C. R. THOMPSON, a witness called and sworn on behalf of the defendants, testified as follows:

DIRECT EXAMINATION.

I have known Mr. Griffin for four or five years, and first met him in Los Angeles; I remember Mr. Griffin being in San Francisco in July, 1912, for the purpose of testifying as a witness in this case for the



